

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for an increase in the Federal minimum wage, and for other purposes.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

H. R. 1591

Making emergency supplemental appropriations for the fiscal year ending September 30, 2007, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY (for himself and Mr. BAUCUS) to the amendment (No. _____) proposed by _____

Viz:

1 Strike all after the first word and insert the following:

2 **V—FAIR MINIMUM WAGE AND**
3 **TAX RELIEF**

4 **Subtitle A—Fair Minimum Wage**

5 **SEC. 500. SHORT TITLE.**

6 This subtitle may be cited as the “Fair Minimum
7 Wage Act of 2007”.

1 **SEC. 501. MINIMUM WAGE.**

2 (a) IN GENERAL.—Section 6(a)(1) of the Fair Labor
3 Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended
4 to read as follows:

5 “(1) except as otherwise provided in this sec-
6 tion, not less than—

7 “(A) \$5.85 an hour, beginning on the 60th
8 day after the date of enactment of the Fair
9 Minimum Wage Act of 2007;

10 “(B) \$6.55 an hour, beginning 12 months
11 after that 60th day; and

12 “(C) \$7.25 an hour, beginning 24 months
13 after that 60th day;”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall take effect 60 days after the date of
16 enactment of this Act.

17 **SEC. 502. APPLICABILITY OF MINIMUM WAGE TO THE COM-**
18 **MONWEALTH OF THE NORTHERN MARIANA**
19 **ISLANDS.**

20 (a) IN GENERAL.—Section 6 of the Fair Labor
21 Standards Act of 1938 (29 U.S.C. 206) shall apply to the
22 Commonwealth of the Northern Mariana Islands.

23 (b) TRANSITION.—Notwithstanding subsection (a),
24 the minimum wage applicable to the Commonwealth of the
25 Northern Mariana Islands under section 6(a)(1) of the

1 Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1))

2 shall be—

3 (1) \$3.55 an hour, beginning on the 60th day

4 after the date of enactment of this Act; and

5 (2) increased by \$0.50 an hour (or such lesser

6 amount as may be necessary to equal the minimum

7 wage under section 6(a)(1) of such Act), beginning

8 6 months after the date of enactment of this Act

9 and every 6 months thereafter until the minimum

10 wage applicable to the Commonwealth of the North-

11 ern Mariana Islands under this subsection is equal

12 to the minimum wage set forth in such section.

13 **Subtitle B—Small Business Tax**
14 **Incentives**

15 **SEC. 510. SHORT TITLE; AMENDMENT OF CODE.**

16 (a) SHORT TITLE.—This subtitle may be cited as the

17 “Small Business and Work Opportunity Act of 2007”.

18 (b) AMENDMENT OF 1986 CODE.—Except as other-

19 wise expressly provided, whenever in this subtitle an

20 amendment or repeal is expressed in terms of an amend-

21 ment to, or repeal of, a section or other provision, the ref-

22 erence shall be considered to be made to a section or other

23 provision of the Internal Revenue Code of 1986.

1 **PART I—SMALL BUSINESS TAX RELIEF**
2 **PROVISIONS**

3 **Subpart A—General Provisions**

4 **SEC. 511. EXTENSION OF INCREASED EXPENSING FOR**
5 **SMALL BUSINESSES.**

6 Section 179 (relating to election to expense certain
7 depreciable business assets) is amended by striking
8 “2010” each place it appears and inserting “2011”.

9 **SEC. 512. EXTENSION AND MODIFICATION OF 15-YEAR**
10 **STRAIGHT-LINE COST RECOVERY FOR QUALI-**
11 **FIED LEASEHOLD IMPROVEMENTS AND**
12 **QUALIFIED RESTAURANT IMPROVEMENTS;**
13 **15-YEAR STRAIGHT-LINE COST RECOVERY**
14 **FOR CERTAIN IMPROVEMENTS TO RETAIL**
15 **SPACE.**

16 (a) **EXTENSION OF LEASEHOLD AND RESTAURANT**
17 **IMPROVEMENTS.—**

18 (1) **IN GENERAL.—**Clauses (iv) and (v) of sec-
19 tion 168(e)(3)(E) (relating to 15-year property) are
20 each amended by striking “January 1, 2008” and
21 inserting “January 1, 2009”.

22 (2) **EFFECTIVE DATE.—**The amendment made
23 by this subsection shall apply to property placed in
24 service after December 31, 2007.

1 (b) MODIFICATION OF TREATMENT OF QUALIFIED
2 RESTAURANT PROPERTY AS 15-YEAR PROPERTY FOR
3 PURPOSES OF DEPRECIATION DEDUCTION.—

4 (1) TREATMENT TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) (relating to
5 classification of property) is amended to read as follows:
6
7

8 “(7) QUALIFIED RESTAURANT PROPERTY.—The
9 term ‘qualified restaurant property’ means any section 1250 property which is a building (or its structural
10 components) or an improvement to such building if more than 50 percent of such building’s
11 square footage is devoted to preparation of, and seating for on-premises consumption of, prepared
12 meals.”
13
14
15

16 (2) EFFECTIVE DATE.—The amendment made
17 by this subsection shall apply to any property placed
18 in service after the date of the enactment of this
19 Act, the original use of which begins with the taxpayer after such date.
20

21 (c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

22 (1) 15-YEAR RECOVERY PERIOD.—Section
23 168(e)(3)(E) (relating to 15-year property) is
24 amended by striking “and” at the end of clause
25

1 (vii), by striking the period at the end of clause (viii)
2 and inserting “, and”, and by adding at the end the
3 following new clause:

4 “(ix) any qualified retail improvement
5 property placed in service before January
6 1, 2009.”.

7 (2) QUALIFIED RETAIL IMPROVEMENT PROP-
8 erty.—Section 168(e) is amended by adding at the
9 end the following new paragraph:

10 “(8) QUALIFIED RETAIL IMPROVEMENT PROP-
11 erty.—

12 “(A) IN GENERAL.—The term ‘qualified
13 retail improvement property’ means any im-
14 provement to an interior portion of a building
15 which is nonresidential real property if—

16 “(i) such portion is open to the gen-
17 eral public and is used in the retail trade
18 or business of selling tangible personal
19 property to the general public, and

20 “(ii) such improvement is placed in
21 service more than 3 years after the date
22 the building was first placed in service.

23 “(B) IMPROVEMENTS MADE BY OWNER.—
24 In the case of an improvement made by the
25 owner of such improvement, such improvement

1 shall be qualified retail improvement property
2 (if at all) only so long as such improvement is
3 held by such owner. Rules similar to the rules
4 under paragraph (6)(B) shall apply for pur-
5 poses of the preceding sentence.

6 “(C) CERTAIN IMPROVEMENTS NOT IN-
7 CLUDED.—Such term shall not include any im-
8 provement for which the expenditure is attrib-
9 utable to—

10 “(i) the enlargement of the building,

11 “(ii) any elevator or escalator,

12 “(iii) any structural component bene-
13 fitting a common area, or

14 “(iv) the internal structural frame-
15 work of the building.”.

16 (3) REQUIREMENT TO USE STRAIGHT LINE
17 METHOD.—Section 168(b)(3) is amended by adding
18 at the end the following new subparagraph:

19 “(I) Qualified retail improvement property
20 described in subsection (e)(8).”.

21 (4) ALTERNATIVE SYSTEM.—The table con-
22 tained in section 168(g)(3)(B) is amended by insert-
23 ing after the item relating to subparagraph (E)(viii)
24 the following new item:

(E)(ix) 39”.

1 (5) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to property placed in
3 service after the date of the enactment of this Act.

4 **SEC. 513. CLARIFICATION OF CASH ACCOUNTING RULES**
5 **FOR SMALL BUSINESS.**

6 (a) CASH ACCOUNTING PERMITTED.—

7 (1) IN GENERAL.—Section 446 (relating to gen-
8 eral rule for methods of accounting) is amended by
9 adding at the end the following new subsection:

10 “(g) CERTAIN SMALL BUSINESS TAXPAYERS PER-
11 MITTED TO USE CASH ACCOUNTING METHOD WITHOUT
12 LIMITATION.—

13 “(1) IN GENERAL.—An eligible taxpayer shall
14 not be required to use an accrual method of account-
15 ing for any taxable year.

16 “(2) ELIGIBLE TAXPAYER.—For purposes of
17 this subsection, a taxpayer is an eligible taxpayer
18 with respect to any taxable year if—

19 “(A) for each of the prior taxable years
20 ending on or after the date of the enactment of
21 this subsection, the taxpayer (or any prede-
22 cessor) met the gross receipts test in effect
23 under section 448(c) for such taxable year, and

1 “(B) the taxpayer is not subject to section
2 447 or 448.”.

3 (2) EXPANSION OF GROSS RECEIPTS TEST.—

4 (A) IN GENERAL.—Paragraph (3) of sec-
5 tion 448(b) (relating to entities with gross re-
6 ceipts of not more than \$5,000,000) is amended
7 to read as follows:

8 “(3) ENTITIES MEETING GROSS RECEIPTS
9 TEST.—Paragraphs (1) and (2) of subsection (a)
10 shall not apply to any corporation or partnership for
11 any taxable year if, for each of the prior taxable
12 years ending on or after the date of the enactment
13 of the Small Business and Work Opportunity Act of
14 2007, the entity (or any predecessor) met the gross
15 receipts test in effect under subsection (c) for such
16 prior taxable year.”.

17 (B) CONFORMING AMENDMENTS.—Section
18 448(c) of such Code is amended—

19 (i) by striking “\$5,000,000” in the
20 heading thereof,

21 (ii) by striking “\$5,000,000” each
22 place it appears in paragraph (1) and in-
23 serting “\$10,000,000”, and

24 (iii) by adding at the end the fol-
25 lowing new paragraph:

1 “(4) INFLATION ADJUSTMENT.—In the case of
2 any taxable year beginning in a calendar year after
3 2008, the dollar amount contained in paragraph (1)
4 shall be increased by an amount equal to—

5 “(A) such dollar amount, multiplied by

6 “(B) the cost-of-living adjustment deter-
7 mined under section 1(f)(3) for the calendar
8 year in which the taxable year begins, by sub-
9 stituting ‘calendar year 2007’ for ‘calendar year
10 1992’ in subparagraph (B) thereof.

11 “If any amount as adjusted under this subpara-
12 graph is not a multiple of \$100,000, such amount
13 shall be rounded to the nearest multiple of
14 \$100,000.”.

15 (b) CLARIFICATION OF INVENTORY RULES FOR
16 SMALL BUSINESS.—

17 (1) IN GENERAL.—Section 471 (relating to gen-
18 eral rule for inventories) is amended by redesignig-
19 nating subsection (c) as subsection (d) and by in-
20 serting after subsection (b) the following new sub-
21 section:

22 “(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED
23 TO USE INVENTORIES.—

1 “(1) IN GENERAL.—A qualified taxpayer shall
2 not be required to use inventories under this section
3 for a taxable year.

4 “(2) TREATMENT OF TAXPAYERS NOT USING
5 INVENTORIES.—If a qualified taxpayer does not use
6 inventories with respect to any property for any tax-
7 able year beginning after the date of the enactment
8 of this subsection, such property shall be treated as
9 a material or supply which is not incidental.

10 “(3) QUALIFIED TAXPAYER.—For purposes of
11 this subsection, the term ‘qualified taxpayer’
12 means—

13 “(A) any eligible taxpayer (as defined in
14 section 446(g)(2)), and

15 “(B) any taxpayer described in section
16 448(b)(3).”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Subpart D of part II of subchapter E
19 of chapter 1 is amended by striking section
20 474.

21 (B) The table of sections for subpart D of
22 part II of subchapter E of chapter 1 is amend-
23 ed by striking the item relating to section 474.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **SEC. 514. EXTENSION AND MODIFICATION OF COMBINED**
5 **WORK OPPORTUNITY TAX CREDIT AND WEL-**
6 **FARE-TO-WORK CREDIT.**

7 (a) EXTENSION.—Section 51(c)(4)(B) (relating to
8 termination) is amended by striking “2007” and inserting
9 “2012”.

10 (b) INCREASE IN MAXIMUM AGE FOR DESIGNATED
11 COMMUNITY RESIDENTS.—

12 (1) IN GENERAL.—Paragraph (5) of section
13 51(d) is amended to read as follows:

14 “(5) DESIGNATED COMMUNITY RESIDENTS.—

15 “(A) IN GENERAL.—The term ‘designated
16 community resident’ means any individual who
17 is certified by the designated local agency—

18 “(i) as having attained age 18 but not
19 age 40 on the hiring date, and

20 “(ii) as having his principal place of
21 abode within an empowerment zone, enter-
22 prise community, renewal community, or
23 rural renewal county.

24 “(B) INDIVIDUAL MUST CONTINUE TO RE-
25 SIDE IN ZONE, COMMUNITY, OR COUNTY.—In

1 the case of a designated community resident,
2 the term ‘qualified wages’ shall not include
3 wages paid or incurred for services performed
4 while the individual’s principal place of abode is
5 outside an empowerment zone, enterprise com-
6 munity, renewal community, or rural renewal
7 county.

8 “(C) RURAL RENEWAL COUNTY.—For pur-
9 poses of this paragraph, the term ‘rural renewal
10 county’ means any county which—

11 “(i) is outside a metropolitan statis-
12 tical area (defined as such by the Office of
13 Management and Budget), and

14 “(ii) during the 5-year periods 1990
15 through 1994 and 1995 through 1999 had
16 a net population loss.”.

17 (2) CONFORMING AMENDMENT.—Subparagraph
18 (D) of section 51(d)(1) is amended to read as fol-
19 lows:

20 “(D) a designated community resident,”.

21 (c) CLARIFICATION OF TREATMENT OF INDIVIDUALS
22 UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B)
23 of section 51(d)(6) (relating to vocational rehabilitation
24 referral) is amended by striking “or” at the end of clause
25 (i), by striking the period at the end of clause (ii) and

1 inserting “, or”, and by adding at the end the following
2 new clause:

3 “(iii) an individual work plan devel-
4 oped and implemented by an employment
5 network pursuant to subsection (g) of sec-
6 tion 1148 of the Social Security Act with
7 respect to which the requirements of such
8 subsection are met.”.

9 (d) TREATMENT OF DISABLED VETERANS UNDER
10 THE WORK OPPORTUNITY TAX CREDIT.—

11 (1) DISABLED VETERANS TREATED AS MEM-
12 BERS OF TARGETED GROUP.—

13 (A) IN GENERAL.—Subparagraph (A) of
14 section 51(d)(3) (relating to qualified veteran)
15 is amended by striking “agency as being a
16 member of a family” and all that follows and
17 inserting “agency as—

18 “(i) being a member of a family re-
19 ceiving assistance under a food stamp pro-
20 gram under the Food Stamp Act of 1977
21 for at least a 3-month period ending dur-
22 ing the 12-month period ending on the hir-
23 ing date, or

1 “(ii) entitled to compensation for a
2 service-connected disability incurred after
3 September 10, 2001.”.

4 (B) DEFINITIONS.—Paragraph (3) of sec-
5 tion 51(d) is amended by adding at the end the
6 following new subparagraph:

7 “(C) OTHER DEFINITIONS.—For purposes
8 of subparagraph (A), the terms ‘compensation’
9 and ‘service-connected’ have the meanings given
10 such terms under section 101 of title 38,
11 United States Code.”.

12 (2) INCREASE IN AMOUNT OF WAGES TAKEN
13 INTO ACCOUNT FOR DISABLED VETERANS.—Para-
14 graph (3) of section 51(b) is amended—

15 (A) by inserting “(\$12,000 per year in the
16 case of any individual who is a qualified veteran
17 by reason of subsection (d)(3)(A)(ii))” before
18 the period at the end, and

19 (B) by striking “**ONLY FIRST** \$6,000 of”
20 in the heading and inserting “**LIMITATION**
21 **ON**”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to individuals who begin work for
24 the employer after the date of the enactment of this Act,
25 in taxable years ending after such date.

1 **SEC. 515. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-**
2 **ZATIONS.**

3 (a) EMPLOYMENT TAXES.—Chapter 25 (relating to
4 general provisions relating to employment taxes) is
5 amended by adding at the end the following new section:

6 **“SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-**
7 **ZATIONS.**

8 “(a) GENERAL RULES.—For purposes of the taxes,
9 and other obligations, imposed by this subtitle—

10 “(1) a certified professional employer organiza-
11 tion shall be treated as the employer (and no other
12 person shall be treated as the employer) of any work
13 site employee performing services for any customer
14 of such organization, but only with respect to remun-
15 eration remitted by such organization to such work
16 site employee, and

17 “(2) exclusions, definitions, and other rules
18 which are based on the type of employer and which
19 would (but for paragraph (1)) apply shall apply with
20 respect to such taxes imposed on such remuneration.

21 “(b) SUCCESSOR EMPLOYER STATUS.—For purposes
22 of sections 3121(a)(1), 3231(e)(2)(C), and 3306(b)(1)—

23 “(1) a certified professional employer organiza-
24 tion entering into a service contract with a customer
25 with respect to a work site employee shall be treated
26 as a successor employer and the customer shall be

1 treated as a predecessor employer during the term
2 of such service contract, and

3 “(2) a customer whose service contract with a
4 certified professional employer organization is termi-
5 nated with respect to a work site employee shall be
6 treated as a successor employer and the certified
7 professional employer organization shall be treated
8 as a predecessor employer.

9 “(c) LIABILITY OF CERTIFIED PROFESSIONAL EM-
10 PLOYER ORGANIZATION.—Solely for purposes of its liabil-
11 ity for the taxes, and other obligations, imposed by this
12 subtitle—

13 “(1) a certified professional employer organiza-
14 tion shall be treated as the employer of any indi-
15 vidual (other than a work site employee or a person
16 described in subsection (f)) who is performing serv-
17 ices covered by a contract meeting the requirements
18 of section 7705(e)(2), but only with respect to remu-
19 neration remitted by such organization to such indi-
20 vidual, and

21 “(2) exclusions, definitions, and other rules
22 which are based on the type of employer and which
23 would (but for paragraph (1)) apply shall apply with
24 respect to such taxes imposed on such remuneration.

25 “(d) TREATMENT OF CREDITS.—

1 “(1) IN GENERAL.—For purposes of any credit
2 specified in paragraph (2)—

3 “(A) such credit with respect to a work
4 site employee performing services for the cus-
5 tomer applies to the customer, not the certified
6 professional employer organization,

7 “(B) the customer, and not the certified
8 professional employer organization, shall take
9 into account wages and employment taxes—

10 “(i) paid by the certified professional
11 employer organization with respect to the
12 work site employee, and

13 “(ii) for which the certified profes-
14 sional employer organization receives pay-
15 ment from the customer, and

16 “(C) the certified professional employer or-
17 ganization shall furnish the customer with any
18 information necessary for the customer to claim
19 such credit.

20 “(2) CREDITS SPECIFIED.—A credit is specified
21 in this paragraph if such credit is allowed under—

22 “(A) section 41 (credit for increasing re-
23 search activity),

24 “(B) section 45A (Indian employment
25 credit),

1 “(C) section 45B (credit for portion of em-
2 ployer social security taxes paid with respect to
3 employee cash tips),

4 “(D) section 45C (clinical testing expenses
5 for certain drugs for rare diseases or condi-
6 tions),

7 “(E) section 51 (work opportunity credit),

8 “(F) section 51A (temporary incentives for
9 employing long-term family assistance recipi-
10 ents),

11 “(G) section 1396 (empowerment zone em-
12 ployment credit),

13 “(H) 1400(d) (DC Zone employment cred-
14 it),

15 “(I) Section 1400H (renewal community
16 employment credit), and

17 “(J) any other section as provided by the
18 Secretary.

19 “(e) SPECIAL RULE FOR RELATED PARTY.—This
20 section shall not apply in the case of a customer which
21 bears a relationship to a certified professional employer
22 organization described in section 267(b) or 707(b). For
23 purposes of the preceding sentence, such sections shall be
24 applied by substituting ‘10 percent’ for ‘50 percent’.

1 “(f) SPECIAL RULE FOR CERTAIN INDIVIDUALS.—
2 For purposes of the taxes imposed under this subtitle, an
3 individual with net earnings from self-employment derived
4 from the customer’s trade or business is not a work site
5 employee with respect to remuneration paid by a certified
6 professional employer organization.

7 “(g) REGULATIONS.—The Secretary shall prescribe
8 such regulations as may be necessary or appropriate to
9 carry out the purposes of this section.”.

10 (b) CERTIFIED PROFESSIONAL EMPLOYER ORGANI-
11 ZATION DEFINED.—Chapter 79 (relating to definitions) is
12 amended by adding at the end the following new section:
13 **“SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-
14 ZATIONS DEFINED.**

15 “(a) IN GENERAL.—For purposes of this title, the
16 term ‘certified professional employer organization’ means
17 a person who has been certified by the Secretary for pur-
18 poses of section 3511 as meeting the requirements of sub-
19 section (b).

20 “(b) GENERAL REQUIREMENTS.—A person meets the
21 requirements of this subsection if such person—

22 “(1) demonstrates that such person (and any
23 owner, officer, and such other persons as may be
24 specified in regulations) meets such requirements as
25 the Secretary shall establish with respect to tax sta-

1 tus, background, experience, business location, and
2 annual financial audits,

3 “(2) computes its taxable income using an ac-
4 crual method of accounting unless the Secretary ap-
5 proves another method,

6 “(3) agrees that it will satisfy the bond and
7 independent financial review requirements of sub-
8 section (c) on an ongoing basis,

9 “(4) agrees that it will satisfy such reporting
10 obligations as may be imposed by the Secretary,

11 “(5) agrees to verify on such periodic basis as
12 the Secretary may prescribe that it continues to
13 meet the requirements of this subsection, and

14 “(6) agrees to notify the Secretary in writing
15 within such time as the Secretary may prescribe of
16 any change that materially affects whether it con-
17 tinues to meet the requirements of this subsection.

18 “(c) BOND AND INDEPENDENT FINANCIAL REVIEW
19 REQUIREMENTS.—

20 “(1) IN GENERAL.—An organization meets the
21 requirements of this paragraph if such organiza-
22 tion—

23 “(A) meets the bond requirements of para-
24 graph (2), and

1 “(B) meets the independent financial re-
2 view requirements of paragraph (3).

3 “(2) BOND.—

4 “(A) IN GENERAL.—A certified profes-
5 sional employer organization meets the require-
6 ments of this paragraph if the organization has
7 posted a bond for the payment of taxes under
8 subtitle C (in a form acceptable to the Sec-
9 retary) in an amount at least equal to the
10 amount specified in subparagraph (B).

11 “(B) AMOUNT OF BOND.—For the period
12 April 1 of any calendar year through March 31
13 of the following calendar year, the amount of
14 the bond required is equal to the greater of—

15 “(i) 5 percent of the organization’s li-
16 ability under section 3511 for taxes im-
17 posed by subtitle C during the preceding
18 calendar year (but not to exceed
19 \$1,000,000), or

20 “(ii) \$50,000.

21 “(3) INDEPENDENT FINANCIAL REVIEW RE-
22 QUIREMENTS.—A certified professional employer or-
23 ganization meets the requirements of this paragraph
24 if such organization—

1 “(A) has, as of the most recent review
2 date, caused to be prepared and provided to the
3 Secretary (in such manner as the Secretary
4 may prescribe) an opinion of an independent
5 certified public accountant that the certified
6 professional employer organization’s financial
7 statements are presented fairly in accordance
8 with generally accepted accounting principles,
9 and

10 “(B) provides, not later than the last day
11 of the second month beginning after the end of
12 each calendar quarter, to the Secretary from an
13 independent certified public accountant an as-
14 sertion regarding Federal employment tax pay-
15 ments and an examination level attestation on
16 such assertion.

17 Such assertion shall state that the organization has
18 withheld and made deposits of all taxes imposed by
19 chapters 21, 22, and 24 of the Internal Revenue
20 Code in accordance with regulations imposed by the
21 Secretary for such calendar quarter and such exam-
22 ination level attestation shall state that such asser-
23 tion is fairly stated, in all material respects.

24 “(4) CONTROLLED GROUP RULES.—For pur-
25 poses of the requirements of paragraphs (2) and (3),

1 all professional employer organizations that are
2 members of a controlled group within the meaning
3 of sections 414(b) and (c) shall be treated as a sin-
4 gle organization.

5 “(5) FAILURE TO FILE ASSERTION AND ATTES-
6 TATION.—If the certified professional employer orga-
7 nization fails to file the assertion and attestation re-
8 quired by paragraph (3) with respect to any cal-
9 endar quarter, then the requirements of paragraph
10 (3) with respect to such failure shall be treated as
11 not satisfied for the period beginning on the due
12 date for such attestation.

13 “(6) REVIEW DATE.—For purposes of para-
14 graph (3)(A), the review date shall be 6 months
15 after the completion of the organization’s fiscal year.

16 “(d) SUSPENSION AND REVOCATION AUTHORITY.—
17 The Secretary may suspend or revoke a certification of
18 any person under subsection (b) for purposes of section
19 3511 if the Secretary determines that such person is not
20 satisfying the representations or requirements of sub-
21 sections (b) or (c), or fails to satisfy applicable accounting,
22 reporting, payment, or deposit requirements.

23 “(e) WORK SITE EMPLOYEE.—For purposes of this
24 title—

1 “(1) IN GENERAL.—The term ‘work site em-
2 ployee’ means, with respect to a certified profes-
3 sional employer organization, an individual who—

4 “(A) performs services for a customer pur-
5 suant to a contract which is between such cus-
6 tomer and the certified professional employer
7 organization and which meets the requirements
8 of paragraph (2), and

9 “(B) performs services at a work site
10 meeting the requirements of paragraph (3).

11 “(2) SERVICE CONTRACT REQUIREMENTS.—A
12 contract meets the requirements of this paragraph
13 with respect to an individual performing services for
14 a customer if such contract is in writing and pro-
15 vides that the certified professional employer organi-
16 zation shall—

17 “(A) assume responsibility for payment of
18 wages to such individual, without regard to the
19 receipt or adequacy of payment from the cus-
20 tomer for such services,

21 “(B) assume responsibility for reporting,
22 withholding, and paying any applicable taxes
23 under subtitle C, with respect to such individ-
24 ual’s wages, without regard to the receipt or

1 adequacy of payment from the customer for
2 such services,

3 “(C) assume responsibility for any em-
4 ployee benefits which the service contract may
5 require the organization to provide, without re-
6 gard to the receipt or adequacy of payment
7 from the customer for such services,

8 “(D) assume responsibility for hiring, fir-
9 ing, and recruiting workers in addition to the
10 customer’s responsibility for hiring, firing and
11 recruiting workers,

12 “(E) maintain employee records relating to
13 such individual, and

14 “(F) agree to be treated as a certified pro-
15 fessional employer organization for purposes of
16 section 3511 with respect to such individual.

17 “(3) WORK SITE COVERAGE REQUIREMENT.—

18 The requirements of this paragraph are met with re-
19 spect to an individual if at least 85 percent of the
20 individuals performing services for the customer at
21 the work site where such individual performs serv-
22 ices are subject to 1 or more contracts with the cer-
23 tified professional employer organization which meet
24 the requirements of paragraph (2) (but not taking

1 into account those individuals who are excluded em-
2 ployees within the meaning of section 414(q)(5)).

3 “(f) DETERMINATION OF EMPLOYMENT STATUS.—

4 Except to the extent necessary for purposes of section
5 3511, nothing in this section shall be construed to affect
6 the determination of who is an employee or employer for
7 purposes of this title.

8 “(g) REGULATIONS.—The Secretary shall prescribe
9 such regulations as may be necessary or appropriate to
10 carry out the purposes of this section.”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Section 3302 is amended by adding at the
13 end the following new subsection:

14 “(h) TREATMENT OF CERTIFIED PROFESSIONAL EM-
15 PLOYER ORGANIZATIONS.—If a certified professional em-
16 ployer organization (as defined in section 7705), or a cus-
17 tomer of such organization, makes a contribution to the
18 State’s unemployment fund with respect to a work site
19 employee, such organization shall be eligible for the credits
20 available under this section with respect to such contribu-
21 tion.”.

22 (2) Section 3303(a) is amended—

23 (A) by striking the period at the end of
24 paragraph (3) and inserting “; and” and by in-

1 serting after paragraph (3) the following new
2 paragraph:

3 “(4) if the taxpayer is a certified professional
4 employer organization (as defined in section 7705)
5 that is treated as the employer under section 3511,
6 such certified professional employer organization is
7 permitted to collect and remit, in accordance with
8 paragraphs (1), (2), and (3), contributions during
9 the taxable year to the State unemployment fund
10 with respect to a work site employee.”, and

11 (B) in the last sentence—

12 (i) by striking “paragraphs (1), (2),
13 and (3)” and inserting “paragraphs (1),
14 (2), (3), and (4)”, and

15 (ii) by striking “paragraph (1), (2), or
16 (3)” and inserting “paragraph (1), (2),
17 (3), or (4)”.

18 (3) Section 6053(c) (relating to reporting of
19 tips) is amended by adding at the end the following
20 new paragraph:

21 “(8) CERTIFIED PROFESSIONAL EMPLOYER OR-
22 GANIZATIONS.—For purposes of any report required
23 by this subsection, in the case of a certified profes-
24 sional employer organization that is treated under
25 section 3511 as the employer of a work site em-

1 ployee, the customer with respect to whom a work
2 site employee performs services shall be the employer
3 for purposes of reporting under this section and the
4 certified professional employer organization shall
5 furnish to the customer any information necessary
6 to complete such reporting no later than such time
7 as the Secretary shall prescribe.”.

8 (d) CLERICAL AMENDMENTS.—

9 (1) The table of sections for chapter 25 is
10 amended by adding at the end the following new
11 item:

“Sec. 3511. Certified professional employer organizations”.

12 (2) The table of sections for chapter 79 is
13 amended by inserting after the item relating to sec-
14 tion 7704 the following new item:

“Sec. 7705. Certified professional employer organizations defined”.

15 (e) REPORTING REQUIREMENTS AND OBLIGA-
16 TIONS.—The Secretary of the Treasury shall develop such
17 reporting and recordkeeping rules, regulations, and proce-
18 dures as the Secretary determines necessary or appro-
19 priate to ensure compliance with the amendments made
20 by this section with respect to entities applying for certifi-
21 cation as certified professional employer organizations or
22 entities that have been so certified. Such rules shall be
23 designed in a manner which streamlines, to the extent pos-
24 sible, the application of requirements of such amendments,

1 the exchange of information between a certified profes-
2 sional employer organization and its customers, and the
3 reporting and recordkeeping obligations of the certified
4 professional employer organization.

5 (f) USER FEES.—Subsection (b) of section 7528 (re-
6 lating to Internal Revenue Service user fees) is amended
7 by adding at the end the following new paragraph:

8 “(4) CERTIFIED PROFESSIONAL EMPLOYER OR-
9 GANIZATIONS.—The fee charged under the program
10 in connection with the certification by the Secretary
11 of a professional employer organization under sec-
12 tion 7705 shall not exceed \$500.”.

13 (g) EFFECTIVE DATES.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall apply with respect to wages for
16 services performed on or after January 1 of the first
17 calendar year beginning more than 12 months after
18 the date of the enactment of this Act.

19 (2) CERTIFICATION PROGRAM.—The Secretary
20 of the Treasury shall establish the certification pro-
21 gram described in section 7705(b) of the Internal
22 Revenue Code of 1986, as added by subsection (b),
23 not later than 6 months before the effective date de-
24 termined under paragraph (1).

1 (h) NO INFERENCE.—Nothing contained in this sec-
2 tion or the amendments made by this section shall be con-
3 strued to create any inference with respect to the deter-
4 mination of who is an employee or employer—

5 (1) for Federal tax purposes (other than the
6 purposes set forth in the amendments made by this
7 section), or

8 (2) for purposes of any other provision of law.

9 **SEC. 516. ACCELERATED DEPRECIATION FOR INVESTMENT**
10 **IN HIGH OUT-MIGRATION COUNTIES.**

11 (a) IN GENERAL.—Section 168 (relating to acceler-
12 ated cost recovery system) is amended by adding at the
13 end the following new subsection:

14 “(m) RURAL INVESTMENT PROPERTY.—

15 “(1) IN GENERAL.—For purposes of subsection
16 (a), the applicable recovery period for qualified rural
17 investment property shall be determined in accord-
18 ance with the table contained in paragraph (2) in
19 lieu of the table contained in subsection (c).

20 “(2) APPLICABLE RECOVERY PERIOD FOR
21 RURAL INVESTMENT PROPERTY.—For purposes of
22 paragraph (1)—

“	“In the case of:	The applicable recovery period is:
	3-year property	2 years
	5-year property	3 years
	7-year property	4 years
	10-year property	6 years
	15-year property	9 years

“	“In the case of:	The applicable	recovery period is:
	20-year property		12 years
	Nonresidential real property		22 years.

1 “(3) QUALIFIED RURAL INVESTMENT PROP-
2 ERTY DEFINED.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 rural investment property’ means property
5 which is property described in the table in para-
6 graph (2) and which is—

7 “(i) used by the taxpayer predomi-
8 nantly in the active conduct of a trade or
9 business within a high out-migration coun-
10 ty,

11 “(ii) not used or located outside such
12 county on a regular basis,

13 “(iii) not acquired (directly or indi-
14 rectly) by the taxpayer from a person who
15 is related to the taxpayer (within the
16 meaning of section 465(b)(3)(C)), and

17 “(iv) not property (or any portion
18 thereof) placed in service for purposes of
19 operating any racetrack or other facility
20 used for gambling.

21 “(B) HIGH OUT-MIGRATION COUNTY.—The
22 term ‘high out-migration county’ means any
23 county which—

1 “(i) is outside a metropolitan statis-
2 tical area (defined as such by the Office of
3 Management and Budget), and

4 “(ii) during the 5-year periods 1990
5 through 1994 and 1995 through 1999 had
6 a net population loss.

7 “(4) TERMINATION.—This subsection shall not
8 apply to property placed in service after March 31,
9 2008.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to property placed in service after
12 the date of the enactment of this Act, the original use of
13 which begins with the taxpayer after such date.

14 **SEC. 517. EXTENSION OF INCREASED EXPENSING FOR**
15 **QUALIFIED SECTION 179 GULF OPPORTUNITY**
16 **ZONE PROPERTY.**

17 Paragraph (2) of section 1400N(e) (relating to quali-
18 fied section 179 Gulf Opportunity Zone property) is
19 amended—

20 (1) by striking “this subsection, the term” and
21 inserting “this subsection—

22 “(A) IN GENERAL.—The term”, and

23 (2) by adding at the end the following new sub-
24 paragraph:

1 “(B) EXTENSION FOR CERTAIN PROP-
2 PERTY.—In the case of property substantially all
3 of the use of which is in one or more specified
4 portions of the GO Zone (as defined by sub-
5 section (d)(6)), such term shall include section
6 179 property (as so defined) which is described
7 in subsection (d)(2), determined—

8 “(i) without regard to subsection
9 (d)(6), and

10 “(ii) by substituting ‘2008’ for ‘2007’
11 in subparagraph (A)(v) thereof.”.

12 **Subpart B—Subchapter S Provisions**

13 **SEC. 521. CAPITAL GAIN OF S CORPORATION NOT TREATED**
14 **AS PASSIVE INVESTMENT INCOME.**

15 (a) IN GENERAL.—Section 1362(d)(3) is amended by
16 striking subparagraphs (B), (C), (D), (E), and (F) and
17 inserting the following new subparagraph:

18 “(B) PASSIVE INVESTMENT INCOME DE-
19 FINED.—

20 “(i) IN GENERAL.—Except as other-
21 wise provided in this subparagraph, the
22 term ‘passive investment income’ means
23 gross receipts derived from royalties, rents,
24 dividends, interest, and annuities.

1 “(ii) EXCEPTION FOR INTEREST ON
2 NOTES FROM SALES OF INVENTORY.—The
3 term ‘passive investment income’ shall not
4 include interest on any obligation acquired
5 in the ordinary course of the corporation’s
6 trade or business from its sale of property
7 described in section 1221(a)(1).

8 “(iii) TREATMENT OF CERTAIN LEND-
9 ING OR FINANCE COMPANIES.—If the S
10 corporation meets the requirements of sec-
11 tion 542(c)(6) for the taxable year, the
12 term ‘passive investment income’ shall not
13 include gross receipts for the taxable year
14 which are derived directly from the active
15 and regular conduct of a lending or finance
16 business (as defined in section 542(d)(1)).

17 “(iv) TREATMENT OF CERTAIN DIVI-
18 DENDS.—If an S corporation holds stock
19 in a C corporation meeting the require-
20 ments of section 1504(a)(2), the term ‘pas-
21 sive investment income’ shall not include
22 dividends from such C corporation to the
23 extent such dividends are attributable to
24 the earnings and profits of such C corpora-

1 tion derived from the active conduct of a
2 trade or business.

3 “(v) EXCEPTION FOR BANKS, ETC.—
4 In the case of a bank (as defined in section
5 581) or a depository institution holding
6 company (as defined in section 3(w)(1) of
7 the Federal Deposit Insurance Act (12
8 U.S.C. 1813(w)(1)), the term ‘passive in-
9 vestment income’ shall not include—

10 “(I) interest income earned by
11 such bank or company, or

12 “(II) dividends on assets required
13 to be held by such bank or company,
14 including stock in the Federal Reserve
15 Bank, the Federal Home Loan Bank,
16 or the Federal Agricultural Mortgage
17 Bank or participation certificates
18 issued by a Federal Intermediate
19 Credit Bank.”.

20 (b) CONFORMING AMENDMENT.—Clause (i) of sec-
21 tion 1042(c)(4)(A) is amended by striking “section
22 1362(d)(3)(C)” and inserting “section 1362(d)(3)(B)”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 the date of the enactment of this Act.

1 **SEC. 522. TREATMENT OF BANK DIRECTOR SHARES.**

2 (a) IN GENERAL.—Section 1361 (defining S corpora-
3 tion) is amended by adding at the end the following new
4 subsection:

5 “(f) RESTRICTED BANK DIRECTOR STOCK.—

6 “(1) IN GENERAL.—Restricted bank director
7 stock shall not be taken into account as outstanding
8 stock of the S corporation in applying this sub-
9 chapter (other than section 1368(f)).

10 “(2) RESTRICTED BANK DIRECTOR STOCK.—

11 For purposes of this subsection, the term ‘restricted
12 bank director stock’ means stock in a bank (as de-
13 fined in section 581) or a depository institution
14 holding company (as defined in section 3(w)(1) of
15 the Federal Deposit Insurance Act (12 U.S.C.
16 1813(w)(1)), if such stock—

17 “(A) is required to be held by an individual
18 under applicable Federal or State law in order
19 to permit such individual to serve as a director,
20 and

21 “(B) is subject to an agreement with such
22 bank or company (or a corporation which con-
23 trols (within the meaning of section 368(e))
24 such bank or company) pursuant to which the
25 holder is required to sell back such stock (at
26 the same price as the individual acquired such

1 stock) upon ceasing to hold the office of direc-
2 tor.

3 “(3) CROSS REFERENCE.—

“For treatment of certain distributions with respect to restricted bank director
stock, see section 1368(f)”.

4 (b) DISTRIBUTIONS.—Section 1368 (relating to dis-
5 tributions) is amended by adding at the end the following
6 new subsection:

7 “(f) RESTRICTED BANK DIRECTOR STOCK.—If a di-
8 rector receives a distribution (not in part or full payment
9 in exchange for stock) from an S corporation with respect
10 to any restricted bank director stock (as defined in section
11 1361(f)), the amount of such distribution—

12 “(1) shall be includible in gross income of the
13 director, and

14 “(2) shall be deductible by the corporation for
15 the taxable year of such corporation in which or with
16 which ends the taxable year in which such amount
17 in included in the gross income of the director.”.

18 (c) EFFECTIVE DATES.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to taxable years beginning
21 after December 31, 2006.

22 (2) SPECIAL RULE FOR TREATMENT AS SECOND
23 CLASS OF STOCK.—In the case of any taxable year
24 beginning after December 31, 1996, restricted bank

1 director stock (as defined in section 1361(f) of the
2 Internal Revenue Code of 1986, as added by this
3 section) shall not be taken into account in deter-
4 mining whether an S corporation has more than 1
5 class of stock.

6 **SEC. 523. SPECIAL RULE FOR BANK REQUIRED TO CHANGE**
7 **FROM THE RESERVE METHOD OF ACCOUNT-**
8 **ING ON BECOMING S CORPORATION.**

9 (a) IN GENERAL.—Section 1361, as amended by this
10 Act, is amended by adding at the end the following new
11 subsection:

12 “(g) SPECIAL RULE FOR BANK REQUIRED TO
13 CHANGE FROM THE RESERVE METHOD OF ACCOUNTING
14 ON BECOMING S CORPORATION.—In the case of a bank
15 which changes from the reserve method of accounting for
16 bad debts described in section 585 or 593 for its first tax-
17 able year for which an election under section 1362(a) is
18 in effect, the bank may elect to take into account any ad-
19 justments under section 481 by reason of such change for
20 the taxable year immediately preceding such first taxable
21 year.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2006.

1 **SEC. 524. TREATMENT OF THE SALE OF INTEREST IN A**
2 **QUALIFIED SUBCHAPTER S SUBSIDIARY.**

3 (a) IN GENERAL.—Subparagraph (C) of section
4 1361(b)(3) (relating to treatment of terminations of quali-
5 fied subchapter S subsidiary status) is amended—

6 (1) by striking “For purposes of this title,” and
7 inserting the following:

8 “(i) IN GENERAL.—For purposes of
9 this title,” and

10 (2) by inserting at the end the following new
11 clause:

12 “(ii) TERMINATION BY REASON OF
13 SALE OF STOCK.—If the failure to meet
14 the requirements of subparagraph (B) is
15 by reason of the sale of stock of a corpora-
16 tion which is a qualified subchapter S sub-
17 sidiary, the sale of such stock shall be
18 treated as if—

19 “(I) the sale were a sale of an
20 undivided interest in the assets of
21 such corporation (based on the per-
22 centage of the corporation’s stock
23 sold), and

24 “(II) the sale were followed by an
25 acquisition by such corporation of all
26 of its assets (and the assumption by

1 such corporation of all of its liabil-
2 ities) in a transaction to which section
3 351 applies.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2006 .

7 **SEC. 525. ELIMINATION OF ALL EARNINGS AND PROFITS**
8 **ATTRIBUTABLE TO PRE-1983 YEARS FOR CER-**
9 **TAIN CORPORATIONS.**

10 In the case of a corporation which is—

11 (1) described in section 1311(a)(1) of the Small
12 Business Job Protection Act of 1996, and

13 (2) not described in section 1311(a)(2) of such
14 Act,

15 the amount of such corporation’s accumulated earn-
16 ings and profits (for the first taxable year beginning after
17 the date of the enactment of this Act) shall be reduced
18 by an amount equal to the portion (if any) of such accu-
19 mulated earnings and profits which were accumulated in
20 any taxable year beginning before January 1, 1983, for
21 which such corporation was an electing small business cor-
22 poration under subchapter S of the Internal Revenue Code
23 of 1986.

1 **SEC. 526. EXPANSION OF QUALIFYING BENEFICIARIES OF**
2 **AN ELECTING SMALL BUSINESS TRUST.**

3 (a) NO LOOK THROUGH FOR ELIGIBILITY PUR-
4 POSES.—Clause (v) of section 1361(c)(2)(B) is amended
5 by adding at the end the following new sentence: “This
6 clause shall not apply for purposes of subsection
7 (b)(1)(C).”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall take effect on the date of the enactment
10 of this Act.

11 **SEC. 527. DEDUCTIBILITY OF INTEREST EXPENSE ON IN-**
12 **DEBTEDNESS INCURRED BY AN ELECTING**
13 **SMALL BUSINESS TRUST TO ACQUIRE S COR-**
14 **PORATION STOCK.**

15 (a) IN GENERAL.—Subparagraph (C) of section
16 641(c)(2) (relating to modifications) is amended by insert-
17 ing after clause (iii) the following new clause:

18 “(iv) Any interest expense paid or ac-
19 crued on indebtedness incurred to acquire
20 stock in an S corporation.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years beginning after
23 December 31, 2006.

1 **PART II—REVENUE PROVISIONS**
2 **SEC. 531. MODIFICATION OF EFFECTIVE DATE OF LEASING**
3 **PROVISIONS OF THE AMERICAN JOBS CRE-**
4 **ATION ACT OF 2004.**

5 (a) LEASES TO FOREIGN ENTITIES.—Section 849(b)
6 of the American Jobs Creation Act of 2004 is amended
7 by adding at the end the following new paragraph:

8 “(5) LEASES TO FOREIGN ENTITIES.—In the
9 case of tax-exempt use property leased to a tax-ex-
10 empt entity which is a foreign person or entity, the
11 amendments made by this part shall apply to taxable
12 years beginning after December 31, 2006, with re-
13 spect to leases entered into on or before March 12,
14 2004.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall take effect as if included in the enact-
17 ment of the American Jobs Creation Act of 2004.

18 **SEC. 532. APPLICATION OF RULES TREATING INVERTED**
19 **CORPORATIONS AS DOMESTIC CORPORA-**
20 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**
21 **RING AFTER MARCH 20, 2002.**

22 (a) IN GENERAL.—Section 7874(b) (relating to in-
23 verted corporations treated as domestic corporations) is
24 amended to read as follows:

25 “(b) INVERTED CORPORATIONS TREATED AS DO-
26 MESTIC CORPORATIONS.—

1 “(1) IN GENERAL.—Notwithstanding section
2 7701(a)(4), a foreign corporation shall be treated for
3 purposes of this title as a domestic corporation if
4 such corporation would be a surrogate foreign cor-
5 poration if subsection (a)(2) were applied by sub-
6 stituting ‘80 percent’ for ‘60 percent’.

7 “(2) SPECIAL RULE FOR CERTAIN TRANS-
8 ACTIONS OCCURRING AFTER MARCH 20, 2002.—

9 “(A) IN GENERAL.—If—

10 “(i) paragraph (1) does not apply to
11 a foreign corporation, but

12 “(ii) paragraph (1) would apply to
13 such corporation if, in addition to the sub-
14 stitution under paragraph (1), subsection
15 (a)(2) were applied by substituting ‘March
16 20, 2002’ for ‘March 4, 2003’ each place
17 it appears,

18 then paragraph (1) shall apply to such corpora-
19 tion but only with respect to taxable years of
20 such corporation beginning after December 31,
21 2006.

22 “(B) SPECIAL RULES.—Subject to such
23 rules as the Secretary may prescribe, in the
24 case of a corporation to which paragraph (1)
25 applies by reason of this paragraph—

1 “(i) the corporation shall be treated,
2 as of the close of its last taxable year be-
3 ginning before January 1, 2007, as having
4 transferred all of its assets, liabilities, and
5 earnings and profits to a domestic corpora-
6 tion in a transaction with respect to which
7 no tax is imposed under this title,

8 “(ii) the bases of the assets trans-
9 ferred in the transaction to the domestic
10 corporation shall be the same as the bases
11 of the assets in the hands of the foreign
12 corporation, subject to any adjustments
13 under this title for built-in losses,

14 “(iii) the basis of the stock of any
15 shareholder in the domestic corporation
16 shall be the same as the basis of the stock
17 of the shareholder in the foreign corpora-
18 tion for which it is treated as exchanged,
19 and

20 “(iv) the transfer of any earnings and
21 profits by reason of clause (i) shall be dis-
22 regarded in determining any deemed divi-
23 dend or foreign tax creditable to the do-
24 mestic corporation with respect to such
25 transfer.

1 “(C) REGULATIONS.—The Secretary may
2 prescribe such regulations as may be necessary
3 or appropriate to carry out this paragraph, in-
4 cluding regulations to prevent the avoidance of
5 the purposes of this paragraph.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to taxable years beginning after
8 December 31, 2006.

9 **SEC. 533. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

10 (a) DISALLOWANCE OF DEDUCTION.—

11 (1) IN GENERAL.—Section 162(g) (relating to
12 treble damage payments under the antitrust laws) is
13 amended—

14 (A) by redesignating paragraphs (1) and
15 (2) as subparagraphs (A) and (B), respectively,

16 (B) by striking “If” and inserting:

17 “(1) TREBLE DAMAGES.—If”, and

18 (C) by adding at the end the following new
19 paragraph:

20 “(2) PUNITIVE DAMAGES.—No deduction shall
21 be allowed under this chapter for any amount paid
22 or incurred for punitive damages in connection with
23 any judgment in, or settlement of, any action. This
24 paragraph shall not apply to punitive damages de-
25 scribed in section 104(c).”.

1 amended by adding at the end the following new
2 item:

“Sec. 91. Punitive damages compensated by insurance or otherwise”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to damages paid or incurred on
5 or after the date of the enactment of this Act.

6 **SEC. 534. DENIAL OF DEDUCTION FOR CERTAIN FINES,**
7 **PENALTIES, AND OTHER AMOUNTS.**

8 (a) **IN GENERAL.**—Subsection (f) of section 162 (re-
9 lating to trade or business expenses) is amended to read
10 as follows:

11 “(f) **FINES, PENALTIES, AND OTHER AMOUNTS.**—

12 “(1) **IN GENERAL.**—Except as provided in para-
13 graph (2), no deduction otherwise allowable shall be
14 allowed under this chapter for any amount paid or
15 incurred (whether by suit, agreement, or otherwise)
16 to, or at the direction of, a government or entity de-
17 scribed in paragraph (4) in relation to—

18 “(A) the violation of any law, or

19 “(B) an investigation or inquiry into the
20 potential violation of any law which is initiated
21 by such government or entity.

22 “(2) **EXCEPTION FOR AMOUNTS CONSTITUTING**
23 **RESTITUTION OR PAID TO COME INTO COMPLIANCE**
24 **WITH LAW.**—Paragraph (1) shall not apply to any
25 amount which—

1 “(A) the taxpayer establishes—
2 “(i) constitutes restitution (or remedi-
3 ation of property) for damage or harm
4 caused by, or which may be caused by, the
5 violation of any law or the potential viola-
6 tion of any law, or
7 “(ii) is paid to come into compliance
8 with any law which was violated or in-
9 volved in the investigation or inquiry, and
10 “(B) is identified as an amount described
11 in clause (i) or (ii) of subparagraph (A), as the
12 case may be, in the court order or settlement
13 agreement, except that the requirement of this
14 subparagraph shall not apply in the case of any
15 settlement agreement which requires the tax-
16 payer to pay or incur an amount not greater
17 than \$1,000,000.

18 A taxpayer shall not meet the requirements of sub-
19 paragraph (A) solely by reason an identification
20 under subparagraph (B). This paragraph shall not
21 apply to any amount paid or incurred as reimburse-
22 ment to the government or entity for the costs of
23 any investigation or litigation unless such amount is
24 paid or incurred for a cost or fee regularly charged

1 for any routine audit or other customary review per-
2 formed by the government or entity.

3 “(3) EXCEPTION FOR AMOUNTS PAID OR IN-
4 CURRED AS THE RESULT OF CERTAIN COURT OR-
5 DERS.—Paragraph (1) shall not apply to any
6 amount paid or incurred by order of a court in a
7 suit in which no government or entity described in
8 paragraph (4) is a party.

9 “(4) CERTAIN NONGOVERNMENTAL REGU-
10 LATORY ENTITIES.—An entity is described in this
11 paragraph if it is—

12 “(A) a nongovernmental entity which exer-
13 cises self-regulatory powers (including imposing
14 sanctions) in connection with a qualified board
15 or exchange (as defined in section 1256(g)(7)),
16 or

17 “(B) to the extent provided in regulations,
18 a nongovernmental entity which exercises self-
19 regulatory powers (including imposing sanc-
20 tions) as part of performing an essential gov-
21 ernmental function.

22 “(5) EXCEPTION FOR TAXES DUE.—Paragraph
23 (1) shall not apply to any amount paid or incurred
24 as taxes due.”.

25 (b) REPORTING OF DEDUCTIBLE AMOUNTS.—

1 (1) IN GENERAL.—Subpart B of part III of
2 subchapter A of chapter 61 is amended by inserting
3 after section 6050V the following new section:

4 **“SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN**
5 **FINES, PENALTIES, AND OTHER AMOUNTS.**

6 “(a) REQUIREMENT OF REPORTING.—

7 “(1) IN GENERAL.—The appropriate official of
8 any government or entity which is described in sec-
9 tion 162(f)(4) which is involved in a suit or agree-
10 ment described in paragraph (2) shall make a return
11 in such form as determined by the Secretary setting
12 forth—

13 “(A) the amount required to be paid as a
14 result of the suit or agreement to which para-
15 graph (1) of section 162(f) applies,

16 “(B) any amount required to be paid as a
17 result of the suit or agreement which con-
18 stitutes restitution or remediation of property,
19 and

20 “(C) any amount required to be paid as a
21 result of the suit or agreement for the purpose
22 of coming into compliance with any law which
23 was violated or involved in the investigation or
24 inquiry.

25 “(2) SUIT OR AGREEMENT DESCRIBED.—

1 “(A) IN GENERAL.—A suit or agreement is
2 described in this paragraph if—

3 “(i) it is—

4 “(I) a suit with respect to a vio-
5 lation of any law over which the gov-
6 ernment or entity has authority and
7 with respect to which there has been
8 a court order, or

9 “(II) an agreement which is en-
10 tered into with respect to a violation
11 of any law over which the government
12 or entity has authority, or with re-
13 spect to an investigation or inquiry by
14 the government or entity into the po-
15 tential violation of any law over which
16 such government or entity has author-
17 ity, and

18 “(ii) the aggregate amount involved in
19 all court orders and agreements with re-
20 spect to the violation, investigation, or in-
21 quiry is \$600 or more.

22 “(B) ADJUSTMENT OF REPORTING
23 THRESHOLD.—The Secretary may adjust the
24 \$600 amount in subparagraph (A)(ii) as nec-

1 essary in order to ensure the efficient adminis-
2 tration of the internal revenue laws.

3 “(3) TIME OF FILING.—The return required
4 under this subsection shall be filed not later than—

5 “(A) 30 days after the date on which a
6 court order is issued with respect to the suit or
7 the date the agreement is entered into, as the
8 case may be, or

9 “(B) the date specified by the Secretary.

10 “(b) STATEMENTS TO BE FURNISHED TO INDIVID-
11 UALS INVOLVED IN THE SETTLEMENT.—Every person re-
12 quired to make a return under subsection (a) shall furnish
13 to each person who is a party to the suit or agreement
14 a written statement showing—

15 “(1) the name of the government or entity, and

16 “(2) the information supplied to the Secretary
17 under subsection (a)(1).

18 The written statement required under the preceding sen-
19 tence shall be furnished to the person at the same time
20 the government or entity provides the Secretary with the
21 information required under subsection (a).

22 “(c) APPROPRIATE OFFICIAL DEFINED.—For pur-
23 poses of this section, the term ‘appropriate official’ means
24 the officer or employee having control of the suit, inves-

1 tigation, or inquiry or the person appropriately designated
2 for purposes of this section.”.

3 (2) CONFORMING AMENDMENT.—The table of
4 sections for subpart B of part III of subchapter A
5 of chapter 61 is amended by inserting after the item
6 relating to section 6050V the following new item:

“Sec. 6050W. Information with respect to certain fines, penalties, and other
amounts”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to amounts paid or incurred on
9 or after the date of the enactment of this Act, except that
10 such amendments shall not apply to amounts paid or in-
11 curred under any binding order or agreement entered into
12 before such date. Such exception shall not apply to an
13 order or agreement requiring court approval unless the ap-
14 proval was obtained before such date.

15 **SEC. 535. REVISION OF TAX RULES ON EXPATRIATION OF**
16 **INDIVIDUALS.**

17 (a) IN GENERAL.—Subpart A of part II of sub-
18 chapter N of chapter 1 is amended by inserting after sec-
19 tion 877 the following new section:

20 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

21 “(a) GENERAL RULES.—For purposes of this sub-
22 title—

23 “(1) MARK TO MARKET.—Except as provided in
24 subsections (d) and (f), all property of a covered ex-

1 patriate to whom this section applies shall be treated
2 as sold on the day before the expatriation date for
3 its fair market value.

4 “(2) RECOGNITION OF GAIN OR LOSS.—In the
5 case of any sale under paragraph (1)—

6 “(A) notwithstanding any other provision
7 of this title, any gain arising from such sale
8 shall be taken into account for the taxable year
9 of the sale, and

10 “(B) any loss arising from such sale shall
11 be taken into account for the taxable year of
12 the sale to the extent otherwise provided by this
13 title, except that section 1091 shall not apply to
14 any such loss.

15 Proper adjustment shall be made in the amount of
16 any gain or loss subsequently realized for gain or
17 loss taken into account under the preceding sen-
18 tence.

19 “(3) EXCLUSION FOR CERTAIN GAIN.—

20 “(A) IN GENERAL.—The amount which,
21 but for this paragraph, would be includible in
22 the gross income of any individual by reason of
23 this section shall be reduced (but not below
24 zero) by \$600,000. For purposes of this para-
25 graph, allocable expatriation gain taken into ac-

1 count under subsection (f)(2) shall be treated in
2 the same manner as an amount required to be
3 includible in gross income.

4 “(B) COST-OF-LIVING ADJUSTMENT.—

5 “(i) IN GENERAL.—In the case of an
6 expatriation date occurring in any calendar
7 year after 2007, the \$600,000 amount
8 under subparagraph (A) shall be increased
9 by an amount equal to—

10 “(I) such dollar amount, multi-
11 plied by

12 “(II) the cost-of-living adjust-
13 ment determined under section 1(f)(3)
14 for such calendar year, determined by
15 substituting ‘calendar year 2006’ for
16 ‘calendar year 1992’ in subparagraph
17 (B) thereof.

18 “(ii) ROUNDING RULES.—If any
19 amount after adjustment under clause (i)
20 is not a multiple of \$1,000, such amount
21 shall be rounded to the next lower multiple
22 of \$1,000.

23 “(4) ELECTION TO CONTINUE TO BE TAXED AS
24 UNITED STATES CITIZEN.—

1 “(A) IN GENERAL.—If a covered expatriate
2 elects the application of this paragraph—

3 “(i) this section (other than this para-
4 graph and subsection (i)) shall not apply to
5 the expatriate, but

6 “(ii) in the case of property to which
7 this section would apply but for such elec-
8 tion, the expatriate shall be subject to tax
9 under this title in the same manner as if
10 the individual were a United States citizen.

11 “(B) REQUIREMENTS.—Subparagraph (A)
12 shall not apply to an individual unless the indi-
13 vidual—

14 “(i) provides security for payment of
15 tax in such form and manner, and in such
16 amount, as the Secretary may require,

17 “(ii) consents to the waiver of any
18 right of the individual under any treaty of
19 the United States which would preclude as-
20 sessment or collection of any tax which
21 may be imposed by reason of this para-
22 graph, and

23 “(iii) complies with such other re-
24 quirements as the Secretary may prescribe.

1 “(C) ELECTION.—An election under sub-
2 paragraph (A) shall apply to all property to
3 which this section would apply but for the elec-
4 tion and, once made, shall be irrevocable. Such
5 election shall also apply to property the basis of
6 which is determined in whole or in part by ref-
7 erence to the property with respect to which the
8 election was made.

9 “(b) ELECTION TO DEFER TAX.—

10 “(1) IN GENERAL.—If the taxpayer elects the
11 application of this subsection with respect to any
12 property treated as sold by reason of subsection (a),
13 the payment of the additional tax attributable to
14 such property shall be postponed until the due date
15 of the return for the taxable year in which such
16 property is disposed of (or, in the case of property
17 disposed of in a transaction in which gain is not rec-
18 ognized in whole or in part, until such other date as
19 the Secretary may prescribe).

20 “(2) DETERMINATION OF TAX WITH RESPECT
21 TO PROPERTY.—For purposes of paragraph (1), the
22 additional tax attributable to any property is an
23 amount which bears the same ratio to the additional
24 tax imposed by this chapter for the taxable year
25 solely by reason of subsection (a) as the gain taken

1 into account under subsection (a) with respect to
2 such property bears to the total gain taken into ac-
3 count under subsection (a) with respect to all prop-
4 erty to which subsection (a) applies.

5 “(3) TERMINATION OF POSTPONEMENT.—No
6 tax may be postponed under this subsection later
7 than the due date for the return of tax imposed by
8 this chapter for the taxable year which includes the
9 date of death of the expatriate (or, if earlier, the
10 time that the security provided with respect to the
11 property fails to meet the requirements of paragraph
12 (4), unless the taxpayer corrects such failure within
13 the time specified by the Secretary).

14 “(4) SECURITY.—

15 “(A) IN GENERAL.—No election may be
16 made under paragraph (1) with respect to any
17 property unless adequate security is provided to
18 the Secretary with respect to such property.

19 “(B) ADEQUATE SECURITY.—For purposes
20 of subparagraph (A), security with respect to
21 any property shall be treated as adequate secu-
22 rity if—

23 “(i) it is a bond in an amount equal
24 to the deferred tax amount under para-
25 graph (2) for the property, or

1 “(ii) the taxpayer otherwise estab-
2 lishes to the satisfaction of the Secretary
3 that the security is adequate.

4 “(5) WAIVER OF CERTAIN RIGHTS.—No elec-
5 tion may be made under paragraph (1) unless the
6 taxpayer consents to the waiver of any right under
7 any treaty of the United States which would pre-
8 clude assessment or collection of any tax imposed by
9 reason of this section.

10 “(6) ELECTIONS.—An election under paragraph
11 (1) shall only apply to property described in the elec-
12 tion and, once made, is irrevocable. An election may
13 be made under paragraph (1) with respect to an in-
14 terest in a trust with respect to which gain is re-
15 quired to be recognized under subsection (f)(1).

16 “(7) INTEREST.—For purposes of section
17 6601—

18 “(A) the last date for the payment of tax
19 shall be determined without regard to the elec-
20 tion under this subsection, and

21 “(B) section 6621(a)(2) shall be applied by
22 substituting ‘5 percentage points’ for ‘3 per-
23 centage points’ in subparagraph (B) thereof.

24 “(c) COVERED EXPATRIATE.—For purposes of this
25 section—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the term ‘covered expatriate’ means an
3 expatriate.

4 “(2) EXCEPTIONS.—An individual shall not be
5 treated as a covered expatriate if—

6 “(A) the individual—

7 “(i) became at birth a citizen of the
8 United States and a citizen of another
9 country and, as of the expatriation date,
10 continues to be a citizen of, and is taxed
11 as a resident of, such other country, and

12 “(ii) has not been a resident of the
13 United States (as defined in section
14 7701(b)(1)(A)(ii)) during the 5 taxable
15 years ending with the taxable year during
16 which the expatriation date occurs, or

17 “(B)(i) the individual’s relinquishment of
18 United States citizenship occurs before such in-
19 dividual attains age 18½, and

20 “(ii) the individual has been a resident of
21 the United States (as so defined) for not more
22 than 5 taxable years before the date of relin-
23 quishment.

24 “(d) EXEMPT PROPERTY; SPECIAL RULES FOR PEN-
25 SION PLANS.—

1 “(1) EXEMPT PROPERTY.—This section shall
2 not apply to the following:

3 “(A) UNITED STATES REAL PROPERTY IN-
4 TERESTS.—Any United States real property in-
5 terest (as defined in section 897(c)(1)), other
6 than stock of a United States real property
7 holding corporation which does not, on the day
8 before the expatriation date, meet the require-
9 ments of section 897(c)(2).

10 “(B) SPECIFIED PROPERTY.—Any prop-
11 erty or interest in property not described in
12 subparagraph (A) which the Secretary specifies
13 in regulations.

14 “(2) SPECIAL RULES FOR CERTAIN RETIRE-
15 MENT PLANS.—

16 “(A) IN GENERAL.—If a covered expatriate
17 holds on the day before the expatriation date
18 any interest in a retirement plan to which this
19 paragraph applies—

20 “(i) such interest shall not be treated
21 as sold for purposes of subsection (a)(1),
22 but

23 “(ii) an amount equal to the present
24 value of the expatriate’s nonforfeitable ac-
25 crued benefit shall be treated as having

1 been received by such individual on such
2 date as a distribution under the plan.

3 “(B) TREATMENT OF SUBSEQUENT DIS-
4 TRIBUTIONS.—In the case of any distribution
5 on or after the expatriation date to or on behalf
6 of the covered expatriate from a plan from
7 which the expatriate was treated as receiving a
8 distribution under subparagraph (A), the
9 amount otherwise includible in gross income by
10 reason of the subsequent distribution shall be
11 reduced by the excess of the amount includible
12 in gross income under subparagraph (A) over
13 any portion of such amount to which this sub-
14 paragraph previously applied.

15 “(C) TREATMENT OF SUBSEQUENT DIS-
16 TRIBUTIONS BY PLAN.—For purposes of this
17 title, a retirement plan to which this paragraph
18 applies, and any person acting on the plan’s be-
19 half, shall treat any subsequent distribution de-
20 scribed in subparagraph (B) in the same man-
21 ner as such distribution would be treated with-
22 out regard to this paragraph.

23 “(D) APPLICABLE PLANS.—This para-
24 graph shall apply to—

1 “(i) any qualified retirement plan (as
2 defined in section 4974(c)),

3 “(ii) an eligible deferred compensation
4 plan (as defined in section 457(b)) of an
5 eligible employer described in section
6 457(e)(1)(A), and

7 “(iii) to the extent provided in regula-
8 tions, any foreign pension plan or similar
9 retirement arrangements or programs.

10 “(e) DEFINITIONS.—For purposes of this section—

11 “(1) EXPATRIATE.—The term ‘expatriate’
12 means—

13 “(A) any United States citizen who relin-
14 quishes citizenship, and

15 “(B) any long-term resident of the United
16 States who—

17 “(i) ceases to be a lawful permanent
18 resident of the United States (within the
19 meaning of section 7701(b)(6)), or

20 “(ii) commences to be treated as a
21 resident of a foreign country under the
22 provisions of a tax treaty between the
23 United States and the foreign country and
24 who does not waive the benefits of such

1 treaty applicable to residents of the foreign
2 country.

3 “(2) EXPATRIATION DATE.—The term ‘expa-
4 triation date’ means—

5 “(A) the date an individual relinquishes
6 United States citizenship, or

7 “(B) in the case of a long-term resident of
8 the United States, the date of the event de-
9 scribed in clause (i) or (ii) of paragraph (1)(B).

10 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
11 citizen shall be treated as relinquishing United
12 States citizenship on the earliest of—

13 “(A) the date the individual renounces
14 such individual’s United States nationality be-
15 fore a diplomatic or consular officer of the
16 United States pursuant to paragraph (5) of sec-
17 tion 349(a) of the Immigration and Nationality
18 Act (8 U.S.C. 1481(a)(5)),

19 “(B) the date the individual furnishes to
20 the United States Department of State a signed
21 statement of voluntary relinquishment of
22 United States nationality confirming the per-
23 formance of an act of expatriation specified in
24 paragraph (1), (2), (3), or (4) of section 349(a)

1 of the Immigration and Nationality Act (8
2 U.S.C. 1481(a)(1)–(4)),

3 “(C) the date the United States Depart-
4 ment of State issues to the individual a certifi-
5 cate of loss of nationality, or

6 “(D) the date a court of the United States
7 cancels a naturalized citizen’s certificate of nat-
8 uralization.

9 Subparagraph (A) or (B) shall not apply to any indi-
10 vidual unless the renunciation or voluntary relin-
11 quishment is subsequently approved by the issuance
12 to the individual of a certificate of loss of nationality
13 by the United States Department of State.

14 “(4) LONG-TERM RESIDENT.—The term ‘long-
15 term resident’ has the meaning given to such term
16 by section 877(e)(2).

17 “(f) SPECIAL RULES APPLICABLE TO BENE-
18 FICIARIES’ INTERESTS IN TRUST.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), if an individual is determined under para-
21 graph (3) to hold an interest in a trust on the day
22 before the expatriation date—

23 “(A) the individual shall not be treated as
24 having sold such interest,

1 “(B) such interest shall be treated as a
2 separate share in the trust, and

3 “(C)(i) such separate share shall be treat-
4 ed as a separate trust consisting of the assets
5 allocable to such share,

6 “(ii) the separate trust shall be treated as
7 having sold its assets on the day before the ex-
8 patriation date for their fair market value and
9 as having distributed all of its assets to the in-
10 dividual as of such time, and

11 “(iii) the individual shall be treated as hav-
12 ing recontributed the assets to the separate
13 trust.

14 Subsection (a)(2) shall apply to any income, gain, or
15 loss of the individual arising from a distribution de-
16 scribed in subparagraph (C)(ii). In determining the
17 amount of such distribution, proper adjustments
18 shall be made for liabilities of the trust allocable to
19 an individual’s share in the trust.

20 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
21 FIED TRUSTS.—

22 “(A) IN GENERAL.—If the trust interest
23 described in paragraph (1) is an interest in a
24 qualified trust—

1 “(i) paragraph (1) and subsection (a)
2 shall not apply, and

3 “(ii) in addition to any other tax im-
4 posed by this title, there is hereby imposed
5 on each distribution with respect to such
6 interest a tax in the amount determined
7 under subparagraph (B).

8 “(B) AMOUNT OF TAX.—The amount of
9 tax under subparagraph (A)(ii) shall be equal to
10 the lesser of—

11 “(i) the highest rate of tax imposed by
12 section 1(e) for the taxable year which in-
13 cludes the day before the expatriation date,
14 multiplied by the amount of the distribu-
15 tion, or

16 “(ii) the balance in the deferred tax
17 account immediately before the distribution
18 determined without regard to any increases
19 under subparagraph (C)(ii) after the 30th
20 day preceding the distribution.

21 “(C) DEFERRED TAX ACCOUNT.—For pur-
22 poses of subparagraph (B)(ii)—

23 “(i) OPENING BALANCE.—The open-
24 ing balance in a deferred tax account with
25 respect to any trust interest is an amount

1 equal to the tax which would have been im-
2 posed on the allocable expatriation gain
3 with respect to the trust interest if such
4 gain had been included in gross income
5 under subsection (a).

6 “(ii) INCREASE FOR INTEREST.—The
7 balance in the deferred tax account shall
8 be increased by the amount of interest de-
9 termined (on the balance in the account at
10 the time the interest accrues), for periods
11 after the 90th day after the expatriation
12 date, by using the rates and method appli-
13 cable under section 6621 for underpay-
14 ments of tax for such periods, except that
15 section 6621(a)(2) shall be applied by sub-
16 stituting ‘5 percentage points’ for ‘3 per-
17 centage points’ in subparagraph (B) there-
18 of.

19 “(iii) DECREASE FOR TAXES PRE-
20 VIOUSLY PAID.—The balance in the tax de-
21 ferred account shall be reduced—

22 “(I) by the amount of taxes im-
23 posed by subparagraph (A) on any
24 distribution to the person holding the
25 trust interest, and

1 “(II) in the case of a person
2 holding a nonvested interest, to the
3 extent provided in regulations, by the
4 amount of taxes imposed by subpara-
5 graph (A) on distributions from the
6 trust with respect to nonvested inter-
7 ests not held by such person.

8 “(D) ALLOCABLE EXPATRIATION GAIN.—
9 For purposes of this paragraph, the allocable
10 expatriation gain with respect to any bene-
11 ficiary’s interest in a trust is the amount of
12 gain which would be allocable to such bene-
13 ficiary’s vested and nonvested interests in the
14 trust if the beneficiary held directly all assets
15 allocable to such interests.

16 “(E) TAX DEDUCTED AND WITHHELD.—
17 “(i) IN GENERAL.—The tax imposed
18 by subparagraph (A)(ii) shall be deducted
19 and withheld by the trustees from the dis-
20 tribution to which it relates.

21 “(ii) EXCEPTION WHERE FAILURE TO
22 WAIVE TREATY RIGHTS.—If an amount
23 may not be deducted and withheld under
24 clause (i) by reason of the distributee fail-

1 Such tax shall be imposed on the trust and
2 each trustee shall be personally liable for the
3 amount of such tax and any other beneficiary
4 of the trust shall be entitled to recover from the
5 covered expatriate or the estate the amount of
6 such tax imposed on the other beneficiary.

7 “(G) DEFINITIONS AND SPECIAL RULES.—
8 For purposes of this paragraph—

9 “(i) QUALIFIED TRUST.—The term
10 ‘qualified trust’ means a trust which is de-
11 scribed in section 7701(a)(30)(E).

12 “(ii) VESTED INTEREST.—The term
13 ‘vested interest’ means any interest which,
14 as of the day before the expatriation date,
15 is vested in the beneficiary.

16 “(iii) NONVESTED INTEREST.—The
17 term ‘nonvested interest’ means, with re-
18 spect to any beneficiary, any interest in a
19 trust which is not a vested interest. Such
20 interest shall be determined by assuming
21 the maximum exercise of discretion in
22 favor of the beneficiary and the occurrence
23 of all contingencies in favor of the bene-
24 ficiary.

1 “(iv) ADJUSTMENTS.—The Secretary
2 may provide for such adjustments to the
3 bases of assets in a trust or a deferred tax
4 account, and the timing of such adjust-
5 ments, in order to ensure that gain is
6 taxed only once.

7 “(v) COORDINATION WITH RETIRE-
8 MENT PLAN RULES.—This subsection shall
9 not apply to an interest in a trust which
10 is part of a retirement plan to which sub-
11 section (d)(2) applies.

12 “(3) DETERMINATION OF BENEFICIARIES’ IN-
13 TEREST IN TRUST.—

14 “(A) DETERMINATIONS UNDER PARA-
15 GRAPH (1).—For purposes of paragraph (1), a
16 beneficiary’s interest in a trust shall be based
17 upon all relevant facts and circumstances, in-
18 cluding the terms of the trust instrument and
19 any letter of wishes or similar document, histor-
20 ical patterns of trust distributions, and the ex-
21 istence of and functions performed by a trust
22 protector or any similar adviser.

23 “(B) OTHER DETERMINATIONS.—For pur-
24 poses of this section—

1 “(2) any extension of time for payment of tax
2 shall cease to apply on the day before the expatria-
3 tion date and the unpaid portion of such tax shall
4 be due and payable at the time and in the manner
5 prescribed by the Secretary.

6 “(h) IMPOSITION OF TENTATIVE TAX.—

7 “(1) IN GENERAL.—If an individual is required
8 to include any amount in gross income under sub-
9 section (a) for any taxable year, there is hereby im-
10 posed, immediately before the expatriation date, a
11 tax in an amount equal to the amount of tax which
12 would be imposed if the taxable year were a short
13 taxable year ending on the expatriation date.

14 “(2) DUE DATE.—The due date for any tax im-
15 posed by paragraph (1) shall be the 90th day after
16 the expatriation date.

17 “(3) TREATMENT OF TAX.—Any tax paid under
18 paragraph (1) shall be treated as a payment of the
19 tax imposed by this chapter for the taxable year to
20 which subsection (a) applies.

21 “(4) DEFERRAL OF TAX.—The provisions of
22 subsection (b) shall apply to the tax imposed by this
23 subsection to the extent attributable to gain includ-
24 ible in gross income by reason of this section.

1 “(i) SPECIAL LIENS FOR DEFERRED TAX
2 AMOUNTS.—

3 “(1) IMPOSITION OF LIEN.—

4 “(A) IN GENERAL.—If a covered expatriate
5 makes an election under subsection (a)(4) or
6 (b) which results in the deferral of any tax im-
7 posed by reason of subsection (a), the deferred
8 amount (including any interest, additional
9 amount, addition to tax, assessable penalty, and
10 costs attributable to the deferred amount) shall
11 be a lien in favor of the United States on all
12 property of the expatriate located in the United
13 States (without regard to whether this section
14 applies to the property).

15 “(B) DEFERRED AMOUNT.—For purposes
16 of this subsection, the deferred amount is the
17 amount of the increase in the covered expatri-
18 ate’s income tax which, but for the election
19 under subsection (a)(4) or (b), would have oc-
20 curred by reason of this section for the taxable
21 year including the expatriation date.

22 “(2) PERIOD OF LIEN.—The lien imposed by
23 this subsection shall arise on the expatriation date
24 and continue until—

1 “(A) the liability for tax by reason of this
2 section is satisfied or has become unenforceable
3 by reason of lapse of time, or

4 “(B) it is established to the satisfaction of
5 the Secretary that no further tax liability may
6 arise by reason of this section.

7 “(3) CERTAIN RULES APPLY.—The rules set
8 forth in paragraphs (1), (3), and (4) of section
9 6324A(d) shall apply with respect to the lien im-
10 posed by this subsection as if it were a lien imposed
11 by section 6324A.

12 “(j) REGULATIONS.—The Secretary shall prescribe
13 such regulations as may be necessary or appropriate to
14 carry out the purposes of this section.”.

15 (b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS
16 RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS
17 FROM EXPATRIATES.—Section 102 (relating to gifts, etc.
18 not included in gross income) is amended by adding at
19 the end the following new subsection:

20 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
21 PATRIATES.—

22 “(1) TREATMENT OF GIFTS AND INHERIT-
23 ANCES.—

24 “(A) IN GENERAL.—Subsection (a) shall
25 not exclude from gross income the value of any

1 property acquired by gift, bequest, devise, or in-
2 heritance from a covered expatriate after the
3 expatriation date.

4 “(B) DETERMINATION OF BASIS.—Not-
5 withstanding sections 1015 or 1022, the basis
6 of any property described in subparagraph (A)
7 in the hands of the donee or the person acquir-
8 ing such property from the decedent shall be
9 equal to the fair market value of the property
10 at the time of the gift, bequest, devise, or inher-
11 itance.

12 “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE
13 SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)
14 shall not apply to any property if either—

15 “(A) the gift, bequest, devise, or inherit-
16 ance is—

17 “(i) shown on a timely filed return of
18 tax imposed by chapter 12 as a taxable gift
19 by the covered expatriate, or

20 “(ii) included in the gross estate of
21 the covered expatriate for purposes of
22 chapter 11 and shown on a timely filed re-
23 turn of tax imposed by chapter 11 of the
24 estate of the covered expatriate, or

1 “(B) no such return was timely filed but
2 no such return would have been required to be
3 filed even if the covered expatriate were a cit-
4 izen or long-term resident of the United States.

5 “(3) DEFINITIONS.—For purposes of this sub-
6 section, any term used in this subsection which is
7 also used in section 877A shall have the same mean-
8 ing as when used in section 877A.”.

9 (c) DEFINITION OF TERMINATION OF UNITED
10 STATES CITIZENSHIP.—Section 7701(a) is amended by
11 adding at the end the following new paragraph:

12 “(50) TERMINATION OF UNITED STATES CITI-
13 ZENSHIP.—

14 “(A) IN GENERAL.—An individual shall
15 not cease to be treated as a United States cit-
16 izen before the date on which the individual’s
17 citizenship is treated as relinquished under sec-
18 tion 877A(e)(3).

19 “(B) DUAL CITIZENS.—Under regulations
20 prescribed by the Secretary, subparagraph (A)
21 shall not apply to an individual who became at
22 birth a citizen of the United States and a cit-
23 izen of another country.”.

24 (d) INELIGIBILITY FOR VISA OR ADMISSION TO
25 UNITED STATES.—

1 (1) IN GENERAL.—Section 212(a)(10)(E) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1182(a)(10)(E)) is amended to read as follows:

4 “(E) FORMER CITIZENS NOT IN COMPLI-
5 ANCE WITH EXPATRIATION REVENUE PROVI-
6 SIONS.—Any alien who is a former citizen of
7 the United States who relinquishes United
8 States citizenship (within the meaning of sec-
9 tion 877A(e)(3) of the Internal Revenue Code
10 of 1986) and who is not in compliance with sec-
11 tion 877A of such Code (relating to expatria-
12 tion) is inadmissible.”.

13 (2) AVAILABILITY OF INFORMATION.—

14 (A) IN GENERAL.—Section 6103(l) (relat-
15 ing to disclosure of returns and return informa-
16 tion for purposes other than tax administration)
17 is amended by adding at the end the following
18 new paragraph:

19 “(21) DISCLOSURE TO DENY VISA OR ADMIS-
20 SION TO CERTAIN EXPATRIATES.—Upon written re-
21 quest of the Attorney General or the Attorney Gen-
22 eral’s delegate, the Secretary shall disclose whether
23 an individual is in compliance with section 877A
24 (and if not in compliance, any items of noncompli-
25 ance) to officers and employees of the Federal agen-

1 cy responsible for administering section
2 212(a)(10)(E) of the Immigration and Nationality
3 Act solely for the purpose of, and to the extent nec-
4 essary in, administering such section
5 212(a)(10)(E).”.

6 (B) SAFEGUARDS.—Section 6103(p)(4)
7 (relating to safeguards) is amended by striking
8 “or (20)” each place it appears and inserting
9 “(20), or (21)”.

10 (3) EFFECTIVE DATES.—The amendments
11 made by this subsection shall apply to individuals
12 who relinquish United States citizenship on or after
13 the date of the enactment of this Act.

14 (e) CONFORMING AMENDMENTS.—

15 (1) Section 877 is amended by adding at the
16 end the following new subsection:

17 “(h) APPLICATION.—This section shall not apply to
18 an expatriate (as defined in section 877A(e)) whose expa-
19 triation date (as so defined) occurs on or after the date
20 of the enactment of this subsection.”.

21 (2) Section 2107 is amended by adding at the
22 end the following new subsection:

23 “(f) APPLICATION.—This section shall not apply to
24 any expatriate subject to section 877A.”.

1 (3) Section 2501(a)(3) is amended by adding at
2 the end the following new subparagraph:

3 “(C) APPLICATION.—This paragraph shall
4 not apply to any expatriate subject to section
5 877A.”.

6 (4) Section 6039G(a) is amended by inserting
7 “or 877A” after “section 877(b)”.

8 (5) The second sentence of section 6039G(d) is
9 amended by inserting “or who relinquishes United
10 States citizenship (within the meaning of section
11 877A(e)(3))” after “section 877(a)”.

12 (f) CLERICAL AMENDMENT.—The table of sections
13 for subpart A of part II of subchapter N of chapter 1
14 is amended by inserting after the item relating to section
15 877 the following new item:

 “Sec. 877A. Tax responsibilities of expatriation”.

16 (g) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in this
18 subsection, the amendments made by this section
19 shall apply to expatriates (within the meaning of
20 section 877A(e) of the Internal Revenue Code of
21 1986, as added by this section) whose expatriation
22 date (as so defined) occurs on or after the date of
23 the enactment of this Act.

24 (2) GIFTS AND BEQUESTS.—Section 102(d) of
25 the Internal Revenue Code of 1986 (as added by

1 subsection (b)) shall apply to gifts and bequests re-
2 ceived on or after the date of the enactment of this
3 Act, from an individual or the estate of an individual
4 whose expatriation date (as so defined) occurs after
5 such date.

6 (3) DUE DATE FOR TENTATIVE TAX.—The due
7 date under section 877A(h)(2) of the Internal Rev-
8 enue Code of 1986, as added by this section, shall
9 in no event occur before the 90th day after the date
10 of the enactment of this Act.

11 **SEC. 536. LIMITATION ON ANNUAL AMOUNTS WHICH MAY**
12 **BE DEFERRED UNDER NONQUALIFIED DE-**
13 **FERRED COMPENSATION ARRANGEMENTS.**

14 (a) IN GENERAL.—Section 409A(a) of the Internal
15 Revenue Code of 1986 (relating to inclusion of gross in-
16 come under nonqualified deferred compensation plans) is
17 amended—

18 (1) by striking “and (4)” in subclause (I) of
19 paragraph (1)(A)(i) and inserting “(4), and (5)”,
20 and

21 (2) by adding at the end the following new
22 paragraph:

23 “(5) ANNUAL LIMITATION ON AGGREGATE DE-
24 FERRED AMOUNTS.—

1 “(A) LIMITATION.—The requirements of
2 this paragraph are met if the plan provides that
3 the aggregate amount of compensation which is
4 deferred for any taxable year with respect to a
5 participant under the plan may not exceed the
6 applicable dollar amount for the taxable year.

7 “(B) INCLUSION OF FUTURE EARNINGS.—
8 If an amount is includible under paragraph (1)
9 in the gross income of a participant for any
10 taxable year by reason of any failure to meet
11 the requirements of this paragraph, any income
12 (whether actual or notional) for any subsequent
13 taxable year shall be included in gross income
14 under paragraph (1)(A) in such subsequent tax-
15 able year to the extent such income—

16 “(i) is attributable to compensation
17 (or income attributable to such compensa-
18 tion) required to be included in gross in-
19 come by reason of such failure (including
20 by reason of this subparagraph), and

21 “(ii) is not subject to a substantial
22 risk of forfeiture and has not been pre-
23 viously included in gross income.

24 “(C) AGGREGATION RULE.—For purposes
25 of this paragraph, all nonqualified deferred

1 compensation plans maintained by all employers
2 treated as a single employer under subsection
3 (d)(6) shall be treated as 1 plan.

4 “(D) APPLICABLE DOLLAR AMOUNT.—For
5 purposes of this paragraph—

6 “(i) IN GENERAL.—The term ‘applica-
7 ble dollar amount’ means, with respect to
8 any participant, the lesser of—

9 “(I) the average annual com-
10 pensation which was payable during
11 the base period to the participant by
12 the employer maintaining the non-
13 qualified deferred compensation plan
14 (or any predecessor of the employer)
15 and which was includible in the par-
16 ticipant’s gross income for taxable
17 years in the base period, or

18 “(II) \$1,000,000.

19 “(ii) BASE PERIOD.—

20 “(I) IN GENERAL.—The term
21 ‘base period’ means, with respect to
22 any computation year, the 5-taxable
23 year period ending with the taxable
24 year preceding the computation year.

1 “(II) ELECTIONS MADE BEFORE
2 COMPUTATION YEAR.—If, before the
3 beginning of the computation year, an
4 election described in paragraph (4)(B)
5 is made by the participant to have
6 compensation for services performed
7 in the computation year deferred
8 under a nonqualified deferred com-
9 pensation plan, the base period shall
10 be the 5-taxable year period ending
11 with the taxable year preceding the
12 taxable year in which the election is
13 made.

14 “(III) COMPUTATION YEAR.—For
15 purposes of this clause, the term
16 ‘computation year’ means any taxable
17 year of the participant for which the
18 limitation under subparagraph (A) is
19 being determined.

20 “(IV) SPECIAL RULE FOR EM-
21 PLOYEES OF LESS THAN 5 YEARS.—If
22 a participant did not perform services
23 for the employer maintaining the non-
24 qualified deferred compensation plan
25 (or any predecessor of the employer)

1 during the entire 5-taxable year pe-
2 riod referred to in subparagraph (A)
3 or (B), only the portion of such period
4 during which the participant per-
5 formed such services shall be taken
6 into account.”.

7 (b) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall apply to taxable years beginning
10 after December 31, 2006, except that—

11 (A) the amendments shall only apply to
12 amounts deferred after December 31, 2006
13 (and to earnings on such amounts), and

14 (B) taxable years beginning on or before
15 December 31, 2006, shall be taken into account
16 in determining the average annual compensa-
17 tion of a participant during any base period for
18 purposes of section 409A(a)(5)(D) of the Inter-
19 nal Revenue Code of 1986 (as added by such
20 amendments).

21 (2) GUIDANCE RELATING TO CERTAIN EXISTING
22 ARRANGEMENTS.—Not later than 60 days after the
23 date of the enactment of this Act, the Secretary of
24 the Treasury shall issue guidance providing a limited
25 period during which a nonqualified deferred com-

1 pensation plan adopted before December 31, 2006,
2 may, without violating the requirements of section
3 409A(a) of such Code, be amended—

4 (A) to provide that a participant may, no
5 later than December 31, 2007, cancel or modify
6 an outstanding deferral election with regard to
7 all or a portion of amounts deferred after De-
8 cember 31, 2006, to the extent necessary for
9 the plan to meet the requirements of section
10 409A(a)(5) of such Code (as added by the
11 amendments made by this section), but only if
12 amounts subject to the cancellation or modifica-
13 tion are, to the extent not previously included
14 in gross income, includible in income of the par-
15 ticipant when no longer subject to substantial
16 risk of forfeiture, and

17 (B) to conform to the requirements of sec-
18 tion 409A(a)(5) of such Code (as added by the
19 amendments made by this section) with regard
20 to amounts deferred after December 31, 2006.

1 **SEC. 537. MODIFICATION OF CRIMINAL PENALTIES FOR**
2 **WILLFUL FAILURES INVOLVING TAX PAY-**
3 **MENTS AND FILING REQUIREMENTS.**

4 (a) INCREASE IN PENALTY FOR ATTEMPT TO EVADE
5 OR DEFEAT TAX.—Section 7201 (relating to attempt to
6 evade or defeat tax) is amended—

7 (1) by striking “\$100,000” and inserting
8 “\$500,000”,

9 (2) by striking “\$500,000” and inserting
10 “\$1,000,000”, and

11 (3) by striking “5 years” and inserting “10
12 years”.

13 (b) MODIFICATION OF PENALTIES FOR WILLFUL
14 FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR
15 PAY TAX.—

16 (1) IN GENERAL.—Section 7203 (relating to
17 willful failure to file return, supply information, or
18 pay tax) is amended—

19 (A) in the first sentence—

20 (i) by striking “Any person” and in-
21 serting the following:

22 “(a) IN GENERAL.—Any person”, and

23 (ii) by striking “\$25,000” and insert-
24 ing “\$50,000”,

25 (B) in the third sentence, by striking “sec-
26 tion” and inserting “subsection”, and

1 (C) by adding at the end the following new
2 subsection:

3 “(b) AGGRAVATED FAILURE TO FILE.—

4 “(1) IN GENERAL.—In the case of any failure
5 described in paragraph (2), the first sentence of sub-
6 section (a) shall be applied by substituting—

7 “(A) ‘felony’ for ‘misdemeanor’,

8 “(B) ‘\$250,000 (\$500,000’ for ‘\$50,000
9 (\$100,000’, and

10 “(C) ‘5 years’ for ‘1 year’.

11 “(2) FAILURE DESCRIBED.—A failure described
12 in this paragraph is—

13 “(A) a failure to make a return described
14 in subsection (a) for any 3 taxable years occur-
15 ring during any period of 5 consecutive taxable
16 years if the aggregate tax liability for such pe-
17 riod is not less than \$50,000, or

18 “(B) a failure to make a return if the tax
19 liability giving rise to the requirement to make
20 such return is attributable to an activity which
21 is a felony under any State or Federal law.”.

22 (2) PENALTY MAY BE APPLIED IN ADDITION TO
23 OTHER PENALTIES.—Section 7204 (relating to
24 fraudulent statement or failure to make statement to
25 employees) is amended by striking “the penalty pro-

1 vided in section 6674” and inserting “the penalties
2 provided in sections 6674 and 7203(b)”.

3 (c) FRAUD AND FALSE STATEMENTS.—Section 7206
4 (relating to fraud and false statements) is amended—

5 (1) by striking “\$100,000” and inserting
6 “\$500,000”,

7 (2) by striking “\$500,000” and inserting
8 “\$1,000,000”, and

9 (3) by striking “3 years” and inserting “5
10 years”.

11 (d) INCREASE IN MONETARY LIMITATION FOR UN-
12 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO
13 FRAUD.—Section 7206 (relating to fraud and false state-
14 ments), as amended by subsection (a)(3), is amended—

15 (1) by striking “Any person who—” and insert-
16 ing “(a) IN GENERAL.—Any person who—”, and

17 (2) by adding at the end the following new sub-
18 section:

19 “(b) INCREASE IN MONETARY LIMITATION FOR UN-
20 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO
21 FRAUD.—If any portion of any underpayment (as defined
22 in section 6664(a)) or overpayment (as defined in section
23 6401(a)) of tax required to be shown on a return is attrib-
24 utable to fraudulent action described in subsection (a), the
25 applicable dollar amount under subsection (a) shall in no

1 event be less than an amount equal to such portion. A
2 rule similar to the rule under section 6663(b) shall apply
3 for purposes of determining the portion so attributable.”.

4 (e) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to actions, and failures to act, oc-
6 ccurring after the date of the enactment of this Act.

7 **SEC. 538. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
8 **INTEREST ON UNDERPAYMENTS RELATED TO**
9 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
10 **MENTS.**

11 (a) DETERMINATION OF PENALTY.—

12 (1) IN GENERAL.—Notwithstanding any other
13 provision of law, in the case of an applicable tax-
14 payer—

15 (A) the determination as to whether any
16 interest or applicable penalty is to be imposed
17 with respect to any arrangement described in
18 paragraph (2), or to any underpayment of Fed-
19 eral income tax attributable to items arising in
20 connection with any such arrangement, shall be
21 made without regard to the rules of subsections
22 (b), (c), and (d) of section 6664 of the Internal
23 Revenue Code of 1986, and

24 (B) if any such interest or applicable pen-
25 alty is imposed, the amount of such interest or

1 penalty shall be equal to twice that determined
2 without regard to this section.

3 (2) APPLICABLE TAXPAYER.—For purposes of
4 this subsection—

5 (A) IN GENERAL.—The term “applicable
6 taxpayer” means a taxpayer which—

7 (i) has underreported its United
8 States income tax liability with respect to
9 any item which directly or indirectly in-
10 volves—

11 (I) any financial arrangement
12 which in any manner relies on the use
13 of offshore payment mechanisms (in-
14 cluding credit, debit, or charge cards)
15 issued by banks or other entities in
16 foreign jurisdictions, or

17 (II) any offshore financial ar-
18 rangement (including any arrange-
19 ment with foreign banks, financial in-
20 stitutions, corporations, partnerships,
21 trusts, or other entities), and

22 (ii) has neither signed a closing agree-
23 ment pursuant to the Voluntary Offshore
24 Compliance Initiative established by the
25 Department of the Treasury under Rev-

1 enue Procedure 2003–11 nor voluntarily
2 disclosed its participation in such arrange-
3 ment by notifying the Internal Revenue
4 Service of such arrangement prior to the
5 issue being raised by the Internal Revenue
6 Service during an examination.

7 (B) *AUTHORITY TO WAIVE*.—The Sec-
8 retary of the Treasury or the Secretary’s dele-
9 gate may waive the application of paragraph (1)
10 to any taxpayer if the Secretary or the Sec-
11 retary’s delegate determines that the use of
12 such offshore payment mechanisms is incidental
13 to the transaction and, in addition, in the case
14 of a trade or business, such use is conducted in
15 the ordinary course of the type of trade or busi-
16 ness of the taxpayer.

17 (C) *ISSUES RAISED*.—For purposes of sub-
18 paragraph (A)(ii), an item shall be treated as
19 an issue raised during an examination if the in-
20 dividual examining the return—

21 (i) communicates to the taxpayer
22 knowledge about the specific item, or

23 (ii) has made a request to the tax-
24 payer for information and the taxpayer
25 could not make a complete response to

1 that request without giving the examiner
2 knowledge of the specific item.

3 (b) **APPLICABLE PENALTY.**—For purposes of this
4 section, the term “applicable penalty” means any penalty,
5 addition to tax, or fine imposed under chapter 68 of the
6 Internal Revenue Code of 1986.

7 (c) **EFFECTIVE DATE.**—The provisions of this section
8 shall apply to interest, penalties, additions to tax, and
9 fines with respect to any taxable year if, as of the date
10 of the enactment of this Act, the assessment of any tax,
11 penalty, or interest with respect to such taxable year is
12 not prevented by the operation of any law or rule of law.

13 **SEC. 539. INCREASE IN PENALTY FOR BAD CHECKS AND**
14 **MONEY ORDERS.**

15 (a) **IN GENERAL.**—Section 6657 (relating to bad
16 checks) is amended—

17 (1) by striking “\$750” and inserting “\$1,250”,
18 and

19 (2) by striking “\$15” and inserting “\$25”.

20 (b) **EFFECTIVE DATE.**—The amendments made by
21 this section apply to checks or money orders received after
22 the date of the enactment of this Act.

1 **SEC. 540. TREATMENT OF CONTINGENT PAYMENT CON-**
2 **VERTIBLE DEBT INSTRUMENTS.**

3 (a) IN GENERAL.—Section 1275(d) (relating to regu-
4 lation authority) is amended—

5 (1) by striking “The Secretary” and inserting
6 the following:

7 “(1) IN GENERAL.—The Secretary”, and

8 (2) by adding at the end the following new
9 paragraph:

10 “(2) TREATMENT OF CONTINGENT PAYMENT
11 CONVERTIBLE DEBT.—

12 “(A) IN GENERAL.—In the case of a debt
13 instrument which—

14 “(i) is convertible into stock of the
15 issuing corporation, into stock or debt of a
16 related party (within the meaning of sec-
17 tion 267(b) or 707(b)(1)), or into cash or
18 other property in an amount equal to the
19 approximate value of such stock or debt,
20 and

21 “(ii) provides for 1 or more contingent
22 payments,

23 any regulations which require original issue dis-
24 count to be determined by reference to the com-
25 parable yield of a fixed-rate debt instrument
26 shall be applied as if the regulations require

1 that such comparable yield be determined by
2 reference to a fixed-rate debt instrument which
3 is convertible into stock.

4 “(B) SPECIAL RULE.—For purposes of
5 subparagraph (A), the comparable yield shall be
6 determined without taking into account the
7 yield resulting from the conversion of a debt in-
8 strument into stock.”.

9 (b) CROSS REFERENCE.—Section 163(e)(6) (relating
10 to cross references) is amended by adding at the end the
11 following:

12 “For the treatment of contingent payment
13 convertible debt, see section 1275(d)(2).”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to debt instruments issued on or
16 after the date of the enactment of this Act.

17 **SEC. 541. EXTENSION OF IRS USER FEES.**

18 Subsection (c) of section 7528 (relating to Internal
19 Revenue Service user fees) is amended by striking “Sep-
20 tember 30, 2014” and inserting “September 30, 2016”.

21 **SEC. 542. MODIFICATION OF COLLECTION DUE PROCESS**
22 **PROCEDURES FOR EMPLOYMENT TAX LI-**
23 **ABILITIES.**

24 (a) IN GENERAL.—Section 6330(f) (relating to jeop-
25 ardy and State refund collection) is amended—

1 (1) by striking “; or” at the end of paragraph

2 (1) and inserting a comma,

3 (2) by adding “or” at the end of paragraph (2),

4 and

5 (3) by inserting after paragraph (2) the fol-
6 lowing new paragraph:

7 “(3) the Secretary has served a levy in connec-
8 tion with the collection of taxes under chapter 21,
9 22, 23, or 24.”.

10 (b) **EFFECTIVE DATE.**—The amendments made by
11 this section shall apply to levies issued on or after the date
12 that is 120 days after the date of the enactment of this
13 Act.

14 **SEC. 543. MODIFICATIONS TO WHISTLEBLOWER REFORMS.**

15 (a) **MODIFICATION OF TAX THRESHOLD FOR**
16 **AWARDS.**—Subparagraph (B) of section 7623(b)(5), as
17 added by the Tax Relief and Health Care Act of 2006,
18 is amended by striking “\$2,000,000” and inserting
19 “\$20,000”.

20 (b) **WHISTLEBLOWER OFFICE.**—

21 (1) **IN GENERAL.**—Section 7623 is amended by
22 adding at the end the following new subsections:

23 “(c) **WHISTLEBLOWER OFFICE.**—

1 “(1) IN GENERAL.—There is established in the
2 Internal Revenue Service an office to be known as
3 the ‘Whistleblower Office’ which—

4 “(A) shall at all times operate at the direc-
5 tion of the Commissioner and coordinate and
6 consult with other divisions in the Internal Rev-
7 enue Service as directed by the Commissioner,

8 “(B) shall analyze information received
9 from any individual described in subsection (b)
10 and either investigate the matter itself or assign
11 it to the appropriate Internal Revenue Service
12 office,

13 “(C) shall monitor any action taken with
14 respect to such matter,

15 “(D) shall inform such individual that it
16 has accepted the individual’s information for
17 further review,

18 “(E) may require such individual and any
19 legal representative of such individual to not
20 disclose any information so provided,

21 “(F) in its sole discretion, may ask for ad-
22 ditional assistance from such individual or any
23 legal representative of such individual, and

1 “(G) shall determine the amount to be
2 awarded to such individual under subsection
3 (b).

4 “(2) FUNDING FOR OFFICE.—There is author-
5 ized to be appropriated \$10,000,000 for each fiscal
6 year for the Whistleblower Office. These funds shall
7 be used to maintain the Whistleblower Office and
8 also to reimburse other Internal Revenue Service of-
9 fices for related costs, such as costs of investigation
10 and collection.

11 “(3) REQUEST FOR ASSISTANCE.—

12 “(A) IN GENERAL.—Any assistance re-
13 quested under paragraph (1)(F) shall be under
14 the direction and control of the Whistleblower
15 Office or the office assigned to investigate the
16 matter under subparagraph (A). No individual
17 or legal representative whose assistance is so re-
18 quested may by reason of such request rep-
19 resent himself or herself as an employee of the
20 Federal Government.

21 “(B) FUNDING OF ASSISTANCE.—From
22 the amounts available for expenditure under
23 subsection (b), the Whistleblower Office may,
24 with the agreement of the individual described
25 in subsection (b), reimburse the costs incurred

1 by any legal representative of such individual in
2 providing assistance described in subparagraph
3 (A).

4 “(d) REPORTS.—The Secretary shall each year con-
5 duct a study and report to Congress on the use of this
6 section, including—

7 “(1) an analysis of the use of this section dur-
8 ing the preceding year and the results of such use,
9 and

10 “(2) any legislative or administrative rec-
11 ommendations regarding the provisions of this sec-
12 tion and its application.”.

13 (2) CONFORMING AMENDMENT.—Section 406
14 of division A of the Tax Relief and Health Care Act
15 of 2006 is amended by striking subsections (b) and
16 (c).

17 (3) REPORT ON IMPLEMENTATION.—Not later
18 than 6 months after the date of the enactment of
19 this Act, the Secretary of the Treasury shall submit
20 to Congress a report on the establishment and oper-
21 ation of the Whistleblower Office under section
22 7623(e) of the Internal Revenue Code of 1986.

23 (c) PUBLICITY OF AWARD APPEALS.—Paragraph (4)
24 of section 7623(b), as added by the Tax Relief and Health
25 Care Act of 2006, is amended to read as follows:

1 “(4) APPEAL OF AWARD DETERMINATION.—

2 “(A) IN GENERAL.—Any determination re-
3 garding an award under paragraph (1), (2), or
4 (3) may, within 30 days of such determination,
5 be appealed to the Tax Court (and the Tax
6 Court shall have jurisdiction with respect to
7 such matter).

8 “(B) PUBLICITY OF APPEALS.—Notwith-
9 standing sections 7458 and 7461, the Tax
10 Court may, in order to preserve the anonymity,
11 privacy, or confidentiality of any person under
12 this subsection, provide by rules adopted under
13 section 7453 that portions of filings, hearings,
14 testimony, evidence, and reports in connection
15 with proceedings under this subsection may be
16 closed to the public or to inspection by the pub-
17 lic.”.

18 (d) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), the amendments made by this section
21 shall apply to information provided on or after the
22 date of the enactment of this Act.

23 (2) PUBLICITY OF AWARD APPEALS.—The
24 amendment made by subsection (c) shall take effect

1 as if included in the amendments made by section
2 406 of the Tax Relief and Health Care Act of 2006.

3 **SEC. 544. MODIFICATIONS OF DEFINITION OF EMPLOYEES**
4 **COVERED BY DENIAL OF DEDUCTION FOR EX-**
5 **CESSIVE EMPLOYEE REMUNERATION.**

6 (a) IN GENERAL.—Paragraph (3) of section 162(m)
7 is amended to read as follows:

8 “(3) COVERED EMPLOYEE.—For purposes of
9 this subsection, the term ‘covered employee’ means,
10 with respect to any taxpayer for any taxable year, an
11 individual who—

12 “(A) was the chief executive officer of the
13 taxpayer, or an individual acting in such a ca-
14 pacity, at any time during the taxable year,

15 “(B) is 1 of the 4 highest compensated of-
16 ficers of the taxpayer for the taxable year
17 (other than the individual described in subpara-
18 graph (A)), or

19 “(C) was a covered employee of the tax-
20 payer (or any predecessor) for any preceding
21 taxable year beginning after December 31,
22 2006.

23 “In the case of an individual who was a covered
24 employee for any taxable year beginning after De-
25 cember 31, 2006, the term ‘covered employee’ shall

1 include a beneficiary of such employee with respect
2 to any remuneration for services performed by such
3 employee as a covered employee (whether or not
4 such services are performed during the taxable year
5 in which the remuneration is paid).”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to taxable years beginning after
8 December 31, 2006.

9 **SEC. 545. INCREASE IN AGE OF MINOR CHILDREN WHOSE**
10 **UNEARNED INCOME IS TAXED AS IF PAR-**
11 **ENT'S INCOME.**

12 (a) IN GENERAL.—Subparagraph (A) of section
13 1(g)(2) (relating to child to whom subsection applies) is
14 amended to read as follows:

15 “(A) such child—

16 “(i) has not attained age 18 before
17 the close of the taxable year, or

18 “(ii)(I) has attained age 18 before the
19 close of the taxable year and meets the age
20 requirements of section 152(c)(3) (deter-
21 mined without regard to subparagraph (B)
22 thereof), and

23 “(II) whose earned income (as defined
24 in section 911(d)(2)) for such taxable year
25 does not exceed one-half of the amount of

1 the individual's support (within the mean-
2 ing of section 152(e)(1)(D) after the appli-
3 cation of section 152(f)(5) (without regard
4 to subparagraph (A) thereof) for such tax-
5 able year.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to taxable years beginning after
8 the date of the enactment of this Act.

9 **SEC. 546. INCREASE IN INFORMATION RETURN PENALTIES.**

10 (a) FAILURE TO FILE CORRECT INFORMATION RE-
11 TURNS.—

12 (1) IN GENERAL.—Section 6721(a)(1) is
13 amended—

14 (A) by striking “\$50” and inserting
15 “\$250”, and

16 (B) by striking “\$250,000” and inserting
17 “\$3,000,000”.

18 (2) REDUCTION WHERE CORRECTION IN SPECI-
19 FIED PERIOD.—

20 (A) CORRECTION WITHIN 30 DAYS.—Sec-
21 tion 6721(b)(1) is amended—

22 (i) by striking “\$15” and inserting
23 “\$50”,

24 (ii) by striking “\$50” and inserting
25 “\$250”, and

1 (iii) by striking “\$75,000” and insert-
2 ing “\$500,000”.

3 (B) FAILURES CORRECTED ON OR BEFORE
4 AUGUST 1.—Section 6721(b)(2) is amended—

5 (i) by striking “\$30” and inserting
6 “\$100”,

7 (ii) by striking “\$50” and inserting
8 “\$250”, and

9 (iii) by striking “\$150,000” and in-
10 sserting “\$1,500,000”.

11 (3) LOWER LIMITATION FOR PERSONS WITH
12 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—

13 Section 6721(d)(1) is amended—

14 (A) in subparagraph (A)—

15 (i) by striking “\$100,000” and insert-
16 ing “\$1,000,000”, and

17 (ii) by striking “\$250,000” and in-
18 sserting “\$3,000,000”,

19 (B) in subparagraph (B)—

20 (i) by striking “\$25,000” and insert-
21 ing “\$175,000”, and

22 (ii) by striking “\$75,000” and insert-
23 ing “\$500,000”, and

24 (C) in subparagraph (C)—

1 (i) by striking “\$50,000” and insert-
2 ing “\$500,000”, and

3 (ii) by striking “\$150,000” and in-
4 sserting “\$1,500,000”.

5 (4) PENALTY IN CASE OF INTENTIONAL DIS-
6 REGARD.—Section 6721(e) is amended—

7 (A) by striking “\$100” in paragraph (2)
8 and inserting “\$500”,

9 (B) by striking “\$250,000” in paragraph
10 (3)(A) and inserting “\$3,000,000”.

11 (b) FAILURE TO FURNISH CORRECT PAYEE STATE-
12 MENTS.—

13 (1) IN GENERAL.—Section 6722(a) is amend-
14 ed—

15 (A) by striking “\$50” and inserting
16 “\$250”, and

17 (B) by striking “\$100,000” and inserting
18 “\$1,000,000”.

19 (2) PENALTY IN CASE OF INTENTIONAL DIS-
20 REGARD.—Section 6722(c) is amended—

21 (A) by striking “\$100” in paragraph (1)
22 and inserting “\$500”, and

23 (B) by striking “\$100,000” in paragraph
24 (2)(A) and inserting “\$1,000,000”.

1 (c) FAILURE TO COMPLY WITH OTHER INFORMA-
2 TION REPORTING REQUIREMENTS.—Section 6723 is
3 amended—

4 (1) by striking “\$50” and inserting “\$250”,
5 and

6 (2) by striking “\$100,000” and inserting
7 “\$1,000,000”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply with respect to information returns
10 required to be filed on or after January 1, 2008.

11 **SEC. 547. E-FILING REQUIREMENT FOR CERTAIN LARGE**
12 **ORGANIZATIONS.**

13 (a) IN GENERAL.—The first sentence of section
14 6011(e)(2) is amended to read as follows: “In prescribing
15 regulations under paragraph (1), the Secretary shall take
16 into account (among other relevant factors) the ability of
17 the taxpayer to comply at reasonable cost with the require-
18 ments of such regulations.”.

19 (b) CONFORMING AMENDMENT.—Section 6724 is
20 amended by striking subsection (e).

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years ending on or after
23 December 31, 2008.

1 **SEC. 548. EXPANSION OF IRS ACCESS TO INFORMATION IN**
2 **NATIONAL DIRECTORY OF NEW HIRES FOR**
3 **TAX ADMINISTRATION PURPOSES.**

4 (a) **IN GENERAL.**—Paragraph (3) of section 453(j)
5 of the Social Security Act (42 U.S.C. 653(j)) is amended
6 to read as follows:

7 “(3) **ADMINISTRATION OF FEDERAL TAX**
8 **LAWS.**—The Secretary of the Treasury shall have
9 access to the information in the National Directory
10 of New Hires for purposes of administering the In-
11 ternal Revenue Code of 1986.”

12 (b) **EFFECTIVE DATE.**—The amendment made by
13 this section shall take effect on the date of the enactment
14 of this Act.

15 **SEC. 549. DISCLOSURE OF PRISONER RETURN INFORMA-**
16 **TION TO FEDERAL BUREAU OF PRISONS.**

17 (a) **DISCLOSURE.**—

18 (1) **IN GENERAL.**—Subsection (l) of section
19 6103 (relating to disclosure of returns and return
20 information for purposes other than tax administra-
21 tion) is amended by adding at the end the following
22 new paragraph:

23 “(22) **DISCLOSURE OF RETURN INFORMATION**
24 **OF PRISONERS TO FEDERAL BUREAU OF PRISONS.**—

25 “(A) **IN GENERAL.**—Under such proce-
26 dures as the Secretary may prescribe, the Sec-

1 retary may disclose return information with re-
2 spect to persons incarcerated in Federal prisons
3 whom the Secretary believes filed or facilitated
4 the filing of false or fraudulent returns to the
5 head of the Federal Bureau of Prisons if the
6 Secretary determines that such disclosure is
7 necessary to permit effective tax administration.

8 “(B) DISCLOSURE BY AGENCY TO EMPLOY-
9 EES.—The head of the Federal Bureau of Pris-
10 ons may redisclose information received under
11 subparagraph (A)—

12 “(i) only to those officers and employ-
13 ees of the Bureau who are personally and
14 directly engaged in taking administrative
15 actions to address violations of administra-
16 tive rules and regulations of the prison fa-
17 cility, and

18 “(ii) solely for the purposes described
19 in subparagraph (C).

20 “(C) RESTRICTION ON USE OF DISCLOSED
21 INFORMATION.—Return information disclosed
22 under this paragraph may be used only for the
23 purposes of—

24 “(i) preventing the filing of false or
25 fraudulent returns; and

1 “(ii) taking administrative actions
2 against individuals who have filed or at-
3 tempted to file false or fraudulent re-
4 turns.”.

5 (2) PROCEDURES AND RECORD KEEPING RE-
6 LATED TO DISCLOSURE.—Subsection (p)(4) of sec-
7 tion 6103 is amended—

8 (A) by striking “(14), or (17)” in the mat-
9 ter before subparagraph (A) and inserting
10 “(14), (17), or (22)”, and

11 (B) by striking “(9), or (16)” in subpara-
12 graph (F)(i) and inserting “(9), (16), or (22)”.

13 (3) EVALUATION BY TREASURY INSPECTOR
14 GENERAL FOR TAX ADMINISTRATION.—Paragraph
15 (3) of section 7803(d) is amended by striking “and”
16 at the end of subparagraph (A), by striking the pe-
17 riod at the end of subparagraph (B) and inserting
18 “; and”, and by adding at the end the following new
19 subparagraph:

20 “(C) not later than 3 years after the date
21 of the enactment of section 6103(l)(22), submit
22 a written report to Congress on the implemen-
23 tation of such section.”.

24 (b) ANNUAL REPORTS.—

1 (1) IN GENERAL.—The Secretary of the Treas-
2 ury shall submit to Congress and make publicly
3 available an annual report on the filing of false and
4 fraudulent returns by individuals incarcerated in
5 Federal and State prisons.

6 (2) CONTENTS OF REPORT.—The report sub-
7 mitted under paragraph (1) shall contain statistics
8 on the number of false or fraudulent returns associ-
9 ated with each Federal and State prison and such
10 other information that the Secretary determines is
11 appropriate.

12 (3) EXCHANGE OF INFORMATION.—For the
13 purpose of gathering information necessary for the
14 reports required under paragraph (1), the Secretary
15 of the Treasury shall enter into agreements with the
16 head of the Federal Bureau of Prisons and the
17 heads of State agencies charged with responsibility
18 for administration of State prisons under which the
19 head of the Bureau or Agency provides to the Sec-
20 retary not less frequently than annually the names
21 and other identifying information of prisoners incar-
22 cerated at each facility administered by the Bureau
23 or Agency.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to disclosures on or after January
3 1, 2008.

4 **SEC. 550. UNDERSTATEMENT OF TAXPAYER LIABILITY BY**
5 **RETURN PREPARERS.**

6 (a) APPLICATION OF RETURN PREPARER PENALTIES
7 TO ALL TAX RETURNS.—

8 (1) DEFINITION OF TAX RETURN PREPARER.—
9 Paragraph (36) of section 7701(a) (relating to in-
10 come tax preparer) is amended—

11 (A) by striking “income” each place it ap-
12 pears in the heading and the text, and

13 (B) in subparagraph (A), by striking “sub-
14 title A” each place it appears and inserting
15 “this title”.

16 (2) CONFORMING AMENDMENTS.—

17 (A)(i) Section 6060 is amended by striking
18 “**INCOME TAX RETURN PREPARERS**” in the
19 heading and inserting “**TAX RETURN PRE-**
20 **PARERS**”.

21 (ii) Section 6060(a) is amended—

22 (I) by striking “an income tax return
23 preparer” each place it appears and insert-
24 ing “a tax return preparer”,

1 (II) by striking “each income tax re-
2 turn preparer” and inserting “each tax re-
3 turn preparer”, and

4 (III) by striking “another income tax
5 return preparer” and inserting “another
6 tax return preparer”.

7 (iii) The item relating to section 6060 in
8 the table of sections for subpart F of part III
9 of subchapter A of chapter 61 is amended by
10 striking “income tax return preparers” and in-
11 serting “tax return preparers”.

12 (iv) Subpart F of part III of subchapter A
13 of chapter 61 is amended by striking “**Income**
14 **Tax Return Preparers**” in the heading
15 and inserting “**Tax Return Preparers**”.

16 (v) The item relating to subpart F in the
17 table of subparts for part III of subchapter A
18 of chapter 61 is amended by striking “income
19 tax return preparers” and inserting “tax return
20 preparers”.

21 (B) Section 6103(k)(5) is amended—

22 (i) by striking “income tax return pre-
23 parer” each place it appears and inserting
24 “tax return preparer”, and

1 (ii) by striking “income tax return
2 preparers” each place it appears and in-
3 sserting “tax return preparers”.

4 (C)(i) Section 6107 is amended—

5 (I) by striking “**INCOME TAX RE-**
6 **TURN PREPARER**” in the heading and in-
7 sserting “**TAX RETURN PREPARER**”,

8 (II) by striking “an income tax return
9 preparer” each place it appears in sub-
10 sections (a) and (b) and inserting “a tax
11 return preparer”,

12 (III) by striking “INCOME TAX RE-
13 TURN PREPARER” in the heading for sub-
14 section (b) and inserting “TAX RETURN
15 PREPARER”, and

16 (IV) in subsection (c), by striking “in-
17 come tax return preparers” and inserting
18 “tax return preparers”.

19 (ii) The item relating to section 6107 in
20 the table of sections for subchapter B of chap-
21 ter 61 is amended by striking “Income tax re-
22 turn preparer” and inserting “Tax return pre-
23 parer”.

24 (D) Section 6109(a)(4) is amended—

1 (i) by striking “an income tax return
2 preparer” and inserting “a tax return pre-
3 parer”, and

4 (ii) by striking “INCOME RETURN
5 PREPARER” in the heading and inserting
6 “TAX RETURN PREPARER”.

7 (E) Section 6503(k)(4) is amended by
8 striking “Income tax return preparers” and in-
9 serting “Tax return preparers”.

10 (F)(i) Section 6694 is amended—

11 (I) by striking “**INCOME TAX RE-**
12 **TURN PREPARER**” in the heading and in-
13 serting “**TAX RETURN PREPARER**”,

14 (II) by striking “an income tax return
15 preparer” each place it appears and insert-
16 ing “a tax return preparer”,

17 (III) in subsection (c)(2), by striking
18 “the income tax return preparer” and in-
19 serting “the tax return preparer”,

20 (IV) in subsection (e), by striking
21 “subtitle A” and inserting “this title”, and

22 (V) in subsection (f), by striking “in-
23 come tax return preparer” and inserting
24 “tax return preparer”.

1 (ii) The item relating to section 6694 in
2 the table of sections for part I of subchapter B
3 of chapter 68 is amended by striking “income
4 tax return preparer” and inserting “tax return
5 preparer”.

6 (G)(i) Section 6695 is amended—

7 (I) by striking “**INCOME**” in the
8 heading, and

9 (II) by striking “an income tax return
10 preparer” each place it appears and insert-
11 ing “a tax return preparer”.

12 (ii) Section 6695(f) is amended—

13 (I) by striking “subtitle A” and in-
14 serting “this title”, and

15 (II) by striking “the income tax re-
16 turn preparer” and inserting “the tax re-
17 turn preparer”.

18 (iii) The item relating to section 6695 in
19 the table of sections for part I of subchapter B
20 of chapter 68 is amended by striking “income”.

21 (H) Section 6696(e) is amended by strik-
22 ing “subtitle A” each place it appears and in-
23 serting “this title”.

24 (I)(i) Section 7407 is amended—

1 (I) by striking “**INCOME TAX RE-**
2 **TURN PREPARERS**” in the heading and
3 inserting “**TAX RETURN PREPARERS**”,

4 (II) by striking “an income tax return
5 preparer” each place it appears and insert-
6 ing “a tax return preparer”,

7 (III) by striking “income tax pre-
8 parer” both places it appears in subsection
9 (a) and inserting “tax return preparer”,
10 and

11 (IV) by striking “income tax return”
12 in subsection (a) and inserting “tax re-
13 turn”.

14 (ii) The item relating to section 7407 in
15 the table of sections for subchapter A of chap-
16 ter 76 is amended by striking “income tax re-
17 turn preparers” and inserting “tax return pre-
18 parers”.

19 (J)(i) Section 7427 is amended—

20 (I) by striking “**INCOME TAX RE-**
21 **TURN PREPARERS**” in the heading and
22 inserting “**TAX RETURN PREPARERS**”,
23 and

1 (II) by striking “an income tax return
2 preparer” and inserting “a tax return pre-
3 parer”.

4 (ii) The item relating to section 7427 in
5 the table of sections for subchapter B of chap-
6 ter 76 is amended to read as follows:

“Sec. 7427. Tax return preparers.”.

7 (b) MODIFICATION OF PENALTY FOR UNDERSTATE-
8 MENT OF TAXPAYER’S LIABILITY BY TAX RETURN PRE-
9 PARER.—Subsections (a) and (b) of section 6694 are
10 amended to read as follows:

11 “(a) UNDERSTATEMENT DUE TO UNREASONABLE
12 POSITIONS.—

13 “(1) IN GENERAL.—Any tax return preparer
14 who prepares any return or claim for refund with re-
15 spect to which any part of an understatement of li-
16 ability is due to a position described in paragraph
17 (2) shall pay a penalty with respect to each such re-
18 turn or claim in an amount equal to the greater of—

19 “(A) \$1,000, or

20 “(B) 50 percent of the income derived (or
21 to be derived) by the tax return preparer with
22 respect to the return or claim.

23 “(2) UNREASONABLE POSITION.—A position is
24 described in this paragraph if—

1 “(A) the tax return preparer knew (or rea-
2 sonably should have known) of the position,

3 “(B) there was not a reasonable belief that
4 the position would more likely than not be sus-
5 tained on its merits, and

6 “(C)(i) the position was not disclosed as
7 provided in section 6662(d)(2)(B)(ii), or

8 “(ii) there was no reasonable basis for the
9 position.

10 “(3) REASONABLE CAUSE EXCEPTION.—No
11 penalty shall be imposed under this subsection if it
12 is shown that there is reasonable cause for the un-
13 derstatement and the tax return preparer acted in
14 good faith.

15 “(b) UNDERSTATEMENT DUE TO WILLFUL OR
16 RECKLESS CONDUCT.—

17 “(1) IN GENERAL.—Any tax return preparer
18 who prepares any return or claim for refund with re-
19 spect to which any part of an understatement of li-
20 ability is due to a conduct described in paragraph
21 (2) shall pay a penalty with respect to each such re-
22 turn or claim in an amount equal to the greater of—

23 “(A) \$5,000, or

1 **“SEC. 6676. ERRONEOUS CLAIM FOR REFUND OR CREDIT.**

2 “(a) CIVIL PENALTY.—If a claim for refund or credit
3 with respect to income tax (other than a claim for a refund
4 or credit relating to the earned income credit under section
5 32) is made for an excessive amount, unless it is shown
6 that the claim for such excessive amount has a reasonable
7 basis, the person making such claim shall be liable for a
8 penalty in an amount equal to 20 percent of the excessive
9 amount.

10 “(b) EXCESSIVE AMOUNT.—For purposes of this sec-
11 tion, the term ‘excessive amount’ means in the case of any
12 person the amount by which the amount of the claim for
13 refund or credit for any taxable year exceeds the amount
14 of such claim allowable under this title for such taxable
15 year.

16 “(c) COORDINATION WITH OTHER PENALTIES.—
17 This section shall not apply to any portion of the excessive
18 amount of a claim for refund or credit on which a penalty
19 is imposed under part II of subchapter A of chapter 68.”.

20 (b) CONFORMING AMENDMENT.—The table of sec-
21 tions for part I of subchapter B of chapter 68 is amended
22 by inserting after the item relating to section 6675 the
23 following new item:

“Sec. 6676. Erroneous claim for refund or credit.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to any claim—

1 **SEC. 553. ADDITIONAL REASONS FOR SECRETARY TO TER-**
2 **MINATE INSTALLMENT AGREEMENTS.**

3 (a) **IN GENERAL.**—Section 6159(b)(4) (relating to
4 failure to pay an installment or any other tax liability
5 when due or to provide requested financial information)
6 is amended by striking “or” at the end of subparagraph
7 (B), by redesignating subparagraph (C) as subparagraph
8 (E), and by inserting after subparagraph (B) the following
9 new subparagraphs:

10 “(C) to make a Federal tax deposit under
11 section 6302 at the time such deposit is re-
12 quired to be made,

13 “(D) to file a return of tax imposed under
14 this title by its due date (including extensions),
15 or”.

16 (b) **CONFORMING AMENDMENT.**—The heading for
17 paragraph (4) of section 6159(b) is amended by striking
18 “FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX
19 LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINAN-
20 CIAL INFORMATION” and inserting “FAILURE TO MAKE
21 PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE
22 OR TO PROVIDE REQUESTED FINANCIAL INFORMATION”.

23 (c) **EFFECTIVE DATE.**—The amendments made by
24 this section shall apply to failures occurring on or after
25 the date of the enactment of this Act.

1 **SEC. 554. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-**
2 **IN-COMPROMISE.**

3 (a) IN GENERAL.—Section 7122(b) (relating to
4 record) is amended by striking “Whenever a compromise”
5 and all that follows through “his delegate, with his reasons
6 therefor” and inserting “If the Secretary determines that
7 an opinion of the General Counsel for the Department of
8 the Treasury, or the Counsel’s delegate, is required with
9 respect to a compromise, there shall be placed on file in
10 the office of the Secretary such opinion, with the reasons
11 therefor”.

12 (b) CONFORMING AMENDMENTS.—Section 7122(b) is
13 amended by striking the second and third sentences.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to offers-in-compromise submitted
16 or pending on or after the date of the enactment of this
17 Act.

18 **SEC. 555. AUTHORIZATION FOR FINANCIAL MANAGEMENT**
19 **SERVICE RETENTION OF TRANSACTION FEES**
20 **FROM LEVIED AMOUNTS.**

21 (a) IN GENERAL.—Subsection (h) of section 6331
22 (relating to continuing levy on certain payments) is
23 amended by adding at the end the following new para-
24 graph:

25 “(4) IMPOSITION OF FINANCIAL MANAGEMENT
26 SERVICES TRANSACTION FEES.—If the Secretary ap-

1 proves a levy under this subsection, the Secretary
2 may impose on the taxpayer a transaction fee suffi-
3 cient to cover the full cost of implementing the levy
4 under this subsection. Such fee—

5 “(A) shall be treated as an expense under
6 section 6341,

7 “(B) may be collected through a levy under
8 this subsection, and

9 “(C) shall be in addition to the amount of
10 tax liability with respect to which such levy was
11 approved.”.

12 (b) **RETENTION OF FEES BY FINANCIAL MANAGE-**
13 **MENT SERVICE.**—The Financial Management Service may
14 retain the amount of any transaction fee imposed under
15 section 6331(h)(4) of the Internal Revenue Code of 1986.
16 Any amount retained by the Financial Management Serv-
17 ice under that section shall be deposited into the account
18 of the Department of the Treasury under section
19 3711(g)(7) of title 31, United States Code.

20 (c) **EFFECTIVE DATE.**—The amendment made by
21 this section shall apply to amounts levied after the date
22 of the enactment of this Act.

1 **SEC. 556. AUTHORITY FOR UNDERCOVER OPERATIONS.**

2 Paragraph (6) of section 7608(c) (relating to applica-
3 tion of section) is amended by striking “2007” both places
4 it appears and inserting “2008”.

5 **SEC. 557. INCREASE IN PENALTY EXCISE TAXES ON THE PO-**
6 **LITICAL AND EXCESS LOBBYING ACTIVITIES**
7 **OF SECTION 501(c)(3) ORGANIZATIONS.**

8 (a) TAXES ON DISQUALIFYING LOBBYING EXPENDI-
9 TURES OF CERTAIN ORGANIZATIONS.—

10 (1) IN GENERAL.—Section 4912(a) (relating to
11 tax on organization) is amended by striking “5 per-
12 cent” and inserting “10 percent”.

13 (2) TAX ON MANAGEMENT.—Section 4912(b) is
14 amended by striking “5 percent” and inserting “10
15 percent”.

16 (b) TAXES ON POLITICAL EXPENDITURES OF SEC-
17 TION 501(c)(3) ORGANIZATIONS.—

18 (1) IN GENERAL.—Section 4955(a) (relating to
19 initial taxes) is amended—

20 (A) in paragraph (1), by striking “10 per-
21 cent” and inserting “20 percent”, and

22 (B) in paragraph (2), by striking “2½
23 percent” and inserting “5 percent”.

24 (2) INCREASED LIMITATION FOR MANAGERS.—
25 Section 4955(c)(2) is amended—

1 (A) by striking “\$5,000” and inserting
2 “\$10,000”, and

3 (B) by striking “\$10,000” and inserting
4 “\$20,000”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 the date of the enactment of this Act.

8 **SEC. 558. INCREASED PENALTY FOR FAILURE TO FILE FOR**
9 **EXEMPT ORGANIZATIONS.**

10 (a) IN GENERAL.—Subparagraph (A) of section
11 6652(c)(1) (relating to annual returns under section
12 6033(a)(1) or 6012(a)(6)) is amended by adding at the
13 end the following new sentence: “In the case of an organi-
14 zation having gross receipts exceeding \$25,000,000 for
15 any year, with respect to the return so required, the first
16 sentence of this subparagraph shall be applied by sub-
17 stituting ‘\$250’ for ‘\$20’ and, in lieu of applying the sec-
18 ond sentence of this subparagraph, the maximum penalty
19 under this subparagraph shall not exceed \$125,000.”.

20 (b) CONFORMING AMENDMENT.—The third sentence
21 of section 6652(c)(1)(A) is amended by inserting “but not
22 exceeding \$25,000,000” after “\$1,000,000”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to returns required to be filed on
25 or after January 1, 2008.

1 **SEC. 559. PENALTIES FOR FAILURE TO FILE CERTAIN RE-**
2 **TURNS ELECTRONICALLY.**

3 (a) IN GENERAL.—Part I of subchapter A of chapter
4 68 (relating to additions to the tax, additional amounts,
5 and assessable penalties) is amended by inserting after
6 section 6652 the following new section:

7 **“SEC. 6652A. FAILURE TO FILE CERTAIN RETURNS ELEC-**
8 **TRONICALLY.**

9 “(a) IN GENERAL.—If a person fails to file a return
10 described in section 6651 or 6652(c)(1) in electronic form
11 as required under section 6011(e)—

12 “(1) such failure shall be treated as a failure to
13 file such return (even if filed in a form other than
14 electronic form), and

15 “(2) the penalty imposed under section 6651 or
16 6652(c), whichever is appropriate, shall be equal to
17 the greater of—

18 “(A) the amount of the penalty under such
19 section, determined without regard to this sec-
20 tion, or

21 “(B) the amount determined under sub-
22 section (b).

23 “(b) AMOUNT OF PENALTY.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graphs (2) and (3), the penalty determined under
26 this subsection is equal to \$40 for each day during

1 which a failure described under subsection (a) con-
2 tinues. The maximum penalty under this paragraph
3 on failures with respect to any 1 return shall not ex-
4 ceed the lesser of \$20,000 or 10 percent of the gross
5 receipts of the taxpayer for the year.

6 “(2) INCREASED PENALTIES FOR TAXPAYERS
7 WITH GROSS RECEIPTS BETWEEN \$1,000,000 AND
8 \$100,000,000.—

9 “(A) TAXPAYERS WITH GROSS RECEIPTS
10 BETWEEN \$1,000,000 AND \$25,000,000.—In the
11 case of a taxpayer having gross receipts exceed-
12 ing \$1,000,000 but not exceeding \$25,000,000
13 for any year—

14 “(i) the first sentence of paragraph
15 (1) shall be applied by substituting ‘\$200’
16 for ‘\$40’, and

17 “(ii) in lieu of applying the second
18 sentence of paragraph (1), the maximum
19 penalty under paragraph (1) shall not ex-
20 ceed \$100,000.

21 “(B) TAXPAYERS WITH GROSS RECEIPTS
22 OVER \$25,000,000.—Except as provided in para-
23 graph (3), in the case of a taxpayer having
24 gross receipts exceeding \$25,000,000 for any
25 year—

1 “(i) the first sentence of paragraph
2 (1) shall be applied by substituting ‘\$500’
3 for ‘\$40’, and

4 “(ii) in lieu of applying the second
5 sentence of paragraph (1), the maximum
6 penalty under paragraph (1) shall not ex-
7 ceed \$250,000.

8 “(3) INCREASED PENALTIES FOR CERTAIN TAX-
9 PAYERS WITH GROSS RECEIPTS EXCEEDING
10 \$100,000,000.—In the case of a return described in
11 section 6651—

12 “(A) TAXPAYERS WITH GROSS RECEIPTS
13 BETWEEN \$100,000,000 AND \$250,000,000.—In the
14 case of a taxpayer having gross receipts exceed-
15 ing \$100,000,000 but not exceeding
16 \$250,000,000 for any year—

17 “(i) the amount of the penalty deter-
18 mined under this subsection shall equal the
19 sum of—

20 “(I) \$50,000, plus

21 “(II) \$1,000 for each day during
22 which such failure continues (twice
23 such amount for each day such failure
24 continues after the first such 60
25 days), and

1 “(ii) the maximum amount under
2 clause (i)(II) on failures with respect to
3 any 1 return shall not exceed \$200,000.

4 “(B) TAXPAYERS WITH GROSS RECEIPTS
5 OVER \$250,000,000.—In the case of a taxpayer
6 having gross receipts exceeding \$250,000,000
7 for any year—

8 “(i) the amount of the penalty deter-
9 mined under this subsection shall equal the
10 sum of—

11 “(I) \$250,000, plus

12 “(II) \$2,500 for each day during
13 which such failure continues (twice
14 such amount for each day such failure
15 continues after the first such 60
16 days), and

17 “(ii) the maximum amount under
18 clause (i)(II) on failures with respect to
19 any 1 return shall not exceed \$250,000.

20 “(C) EXCEPTION FOR CERTAIN RE-
21 TURNS.—Subparagraphs (A) and (B) shall not
22 apply to any return of tax imposed under sec-
23 tion 511.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for part I of subchapter A of chapter 68 is amended by

1 inserting after the item relating to section 6652 the fol-
2 lowing new item:

“Sec. 6652A. Failure to file certain returns electronically.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to returns required to be filed on
5 or after January 1, 2008.

6 **PART III—GENERAL PROVISIONS**

7 **SEC. 561. ENHANCED COMPLIANCE ASSISTANCE FOR**
8 **SMALL BUSINESSES.**

9 (a) IN GENERAL.—Section 212 of the Small Business
10 Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.
11 601 note) is amended by striking subsection (a) and in-
12 serting the following:

13 “(a) COMPLIANCE GUIDE.—

14 “(1) IN GENERAL.—For each rule or group of
15 related rules for which an agency is required to pre-
16 pare a final regulatory flexibility analysis under sec-
17 tion 605(b) of title 5, United States Code, the agen-
18 cy shall publish 1 or more guides to assist small en-
19 tities in complying with the rule and shall entitle
20 such publications ‘small entity compliance guides’.

21 “(2) PUBLICATION OF GUIDES.—The publica-
22 tion of each guide under this subsection shall in-
23 clude—

1 “(A) the posting of the guide in an easily
2 identified location on the website of the agency;
3 and

4 “(B) distribution of the guide to known in-
5 dustry contacts, such as small entities, associa-
6 tions, or industry leaders affected by the rule.

7 “(3) PUBLICATION DATE.—An agency shall
8 publish each guide (including the posting and dis-
9 tribution of the guide as described under paragraph
10 (2))—

11 “(A) on the same date as the date of publi-
12 cation of the final rule (or as soon as possible
13 after that date); and

14 “(B) not later than the date on which the
15 requirements of that rule become effective.

16 “(4) COMPLIANCE ACTIONS.—

17 “(A) IN GENERAL.—Each guide shall ex-
18 plain the actions a small entity is required to
19 take to comply with a rule.

20 “(B) EXPLANATION.—The explanation
21 under subparagraph (A)—

22 “(i) shall include a description of ac-
23 tions needed to meet the requirements of a
24 rule, to enable a small entity to know when
25 such requirements are met; and

1 “(ii) if determined appropriate by the
2 agency, may include a description of pos-
3 sible procedures, such as conducting tests,
4 that may assist a small entity in meeting
5 such requirements, except that, compliance
6 with any procedures described pursuant to
7 this section does not establish compliance
8 with the rule, or establish a presumption
9 or inference of such compliance.

10 “(C) PROCEDURES.—Procedures described
11 under subparagraph (B)(ii)—

12 “(i) shall be suggestions to assist
13 small entities; and

14 “(ii) shall not be additional require-
15 ments, or diminish requirements, relating
16 to the rule.

17 “(5) AGENCY PREPARATION OF GUIDES.—The
18 agency shall, in its sole discretion, taking into ac-
19 count the subject matter of the rule and the lan-
20 guage of relevant statutes, ensure that the guide is
21 written using sufficiently plain language likely to be
22 understood by affected small entities. Agencies may
23 prepare separate guides covering groups or classes of
24 similarly affected small entities and may cooperate
25 with associations of small entities to develop and dis-

1 tribute such guides. An agency may prepare guides
2 and apply this section with respect to a rule or a
3 group of related rules.

4 “(6) REPORTING.—Not later than 1 year after
5 the date of enactment of the Fair Minimum Wage
6 Act of 2007, and annually thereafter, the head of
7 each agency shall submit a report to the Committee
8 on Small Business and Entrepreneurship of the Sen-
9 ate, the Committee on Small Business of the House
10 of Representatives, and any other committee of rel-
11 evant jurisdiction describing the status of the agen-
12 cy’s compliance with paragraphs (1) through (5).”.

13 (b) TECHNICAL AND CONFORMING AMENDMENT.—
14 Section 211(3) of the Small Business Regulatory Enforce-
15 ment Fairness Act of 1996 (5 U.S.C. 601 note) is amend-
16 ed by inserting “and entitled” after “designated”.

17 **SEC. 562. SMALL BUSINESS CHILD CARE GRANT PROGRAM.**

18 (a) ESTABLISHMENT.—The Secretary of Health and
19 Human Services (referred to in this section as the “Sec-
20 retary”) shall establish a program to award grants to
21 States, on a competitive basis, to assist States in providing
22 funds to encourage the establishment and operation of em-
23 ployer-operated child care programs.

24 (b) APPLICATION.—To be eligible to receive a grant
25 under this section, a State shall prepare and submit to

1 the Secretary an application at such time, in such manner,
2 and containing such information as the Secretary may re-
3 quire, including an assurance that the funds required
4 under subsection (e) will be provided.

5 (c) AMOUNT AND PERIOD OF GRANT.—The Sec-
6 retary shall determine the amount of a grant to a State
7 under this section based on the population of the State
8 as compared to the population of all States receiving
9 grants under this section. The Secretary shall make the
10 grant for a period of 3 years.

11 (d) USE OF FUNDS.—

12 (1) IN GENERAL.—A State shall use amounts
13 provided under a grant awarded under this section
14 to provide assistance to small businesses (or con-
15 sortia formed in accordance with paragraph (3)) lo-
16 cated in the State to enable the small businesses (or
17 consortia) to establish and operate child care pro-
18 grams. Such assistance may include—

19 (A) technical assistance in the establish-
20 ment of a child care program;

21 (B) assistance for the startup costs related
22 to a child care program;

23 (C) assistance for the training of child care
24 providers;

1 (D) scholarships for low-income wage earn-
2 ers;

3 (E) the provision of services to care for
4 sick children or to provide care to school-aged
5 children;

6 (F) the entering into of contracts with
7 local resource and referral organizations or local
8 health departments;

9 (G) assistance for care for children with
10 disabilities;

11 (H) payment of expenses for renovation or
12 operation of a child care facility; or

13 (I) assistance for any other activity deter-
14 mined appropriate by the State.

15 (2) APPLICATION.—In order for a small busi-
16 ness or consortium to be eligible to receive assistance
17 from a State under this section, the small business
18 involved shall prepare and submit to the State an
19 application at such time, in such manner, and con-
20 taining such information as the State may require.

21 (3) PREFERENCE.—

22 (A) IN GENERAL.—In providing assistance
23 under this section, a State shall give priority to
24 an applicant that desires to form a consortium
25 to provide child care in a geographic area with-

1 in the State where such care is not generally
2 available or accessible.

3 (B) CONSORTIUM.—For purposes of sub-
4 paragraph (A), a consortium shall be made up
5 of 2 or more entities that shall include small
6 businesses and that may include large busi-
7 nesses, nonprofit agencies or organizations,
8 local governments, or other appropriate entities.

9 (4) LIMITATIONS.—With respect to grant funds
10 received under this section, a State may not provide
11 in excess of \$500,000 in assistance from such funds
12 to any single applicant.

13 (e) MATCHING REQUIREMENT.—To be eligible to re-
14 ceive a grant under this section, a State shall provide as-
15 surances to the Secretary that, with respect to the costs
16 to be incurred by a covered entity receiving assistance in
17 carrying out activities under this section, the covered enti-
18 ty will make available (directly or through donations from
19 public or private entities) non-Federal contributions to
20 such costs in an amount equal to—

21 (1) for the first fiscal year in which the covered
22 entity receives such assistance, not less than 50 per-
23 cent of such costs (\$1 for each \$1 of assistance pro-
24 vided to the covered entity under the grant);

1 (2) for the second fiscal year in which the cov-
2 ered entity receives such assistance, not less than
3 66 $\frac{2}{3}$ percent of such costs (\$2 for each \$1 of assist-
4 ance provided to the covered entity under the grant);
5 and

6 (3) for the third fiscal year in which the covered
7 entity receives such assistance, not less than 75 per-
8 cent of such costs (\$3 for each \$1 of assistance pro-
9 vided to the covered entity under the grant).

10 (f) REQUIREMENTS OF PROVIDERS.—To be eligible
11 to receive assistance under a grant awarded under this
12 section, a child care provider—

13 (1) who receives assistance from a State shall
14 comply with all applicable State and local licensing
15 and regulatory requirements and all applicable
16 health and safety standards in effect in the State;
17 and

18 (2) who receives assistance from an Indian tribe
19 or tribal organization shall comply with all applica-
20 ble regulatory standards.

21 (g) STATE-LEVEL ACTIVITIES.—A State may not re-
22 tain more than 3 percent of the amount described in sub-
23 section (e) for State administration and other State-level
24 activities.

25 (h) ADMINISTRATION.—

1 (1) STATE RESPONSIBILITY.—A State shall
2 have responsibility for administering a grant award-
3 ed for the State under this section and for moni-
4 toring covered entities that receive assistance under
5 such grant.

6 (2) AUDITS.—A State shall require each cov-
7 ered entity receiving assistance under the grant
8 awarded under this section to conduct an annual
9 audit with respect to the activities of the covered en-
10 tity. Such audits shall be submitted to the State.

11 (3) MISUSE OF FUNDS.—

12 (A) REPAYMENT.—If the State determines,
13 through an audit or otherwise, that a covered
14 entity receiving assistance under a grant award-
15 ed under this section has misused the assist-
16 ance, the State shall notify the Secretary of the
17 misuse. The Secretary, upon such a notifica-
18 tion, may seek from such a covered entity the
19 repayment of an amount equal to the amount
20 of any such misused assistance plus interest.

21 (B) APPEALS PROCESS.—The Secretary
22 shall by regulation provide for an appeals proc-
23 ess with respect to repayments under this para-
24 graph.

25 (i) REPORTING REQUIREMENTS.—

1 (1) 2-YEAR STUDY.—

2 (A) IN GENERAL.—Not later than 2 years
3 after the date on which the Secretary first
4 awards grants under this section, the Secretary
5 shall conduct a study to determine—

6 (i) the capacity of covered entities to
7 meet the child care needs of communities
8 within States;

9 (ii) the kinds of consortia that are
10 being formed with respect to child care at
11 the local level to carry out programs fund-
12 ed under this section; and

13 (iii) who is using the programs funded
14 under this section and the income levels of
15 such individuals.

16 (B) REPORT.—Not later than 28 months
17 after the date on which the Secretary first
18 awards grants under this section, the Secretary
19 shall prepare and submit to the appropriate
20 committees of Congress a report on the results
21 of the study conducted in accordance with sub-
22 paragraph (A).

23 (2) 4-YEAR STUDY.—

24 (A) IN GENERAL.—Not later than 4 years
25 after the date on which the Secretary first

1 awards grants under this section, the Secretary
2 shall conduct a study to determine the number
3 of child care facilities that are funded through
4 covered entities that received assistance through
5 a grant awarded under this section and that re-
6 main in operation, and the extent to which such
7 facilities are meeting the child care needs of the
8 individuals served by such facilities.

9 (B) REPORT.—Not later than 52 months
10 after the date on which the Secretary first
11 awards grants under this section, the Secretary
12 shall prepare and submit to the appropriate
13 committees of Congress a report on the results
14 of the study conducted in accordance with sub-
15 paragraph (A).

16 (j) DEFINITIONS.—In this section:

17 (1) COVERED ENTITY.—The term “covered en-
18 tity” means a small business or a consortium formed
19 in accordance with subsection (d)(3).

20 (2) INDIAN COMMUNITY.—The term “Indian
21 community” means a community served by an In-
22 dian tribe or tribal organization.

23 (3) INDIAN TRIBE; TRIBAL ORGANIZATION.—
24 The terms “Indian tribe” and “tribal organization”
25 have the meanings given the terms in section 658P

1 of the Child Care and Development Block Grant Act
2 of 1990 (42 U.S.C. 9858n).

3 (4) SMALL BUSINESS.—The term “small busi-
4 ness” means an employer who employed an average
5 of at least 2 but not more than 50 employees on the
6 business days during the preceding calendar year.

7 (5) STATE.—The term “State” has the mean-
8 ing given the term in section 658P of the Child Care
9 and Development Block Grant Act of 1990 (42
10 U.S.C. 9858n).

11 (k) APPLICATION TO INDIAN TRIBES AND TRIBAL
12 ORGANIZATIONS.—In this section:

13 (1) IN GENERAL.—Except as provided in sub-
14 section (f)(1), and in paragraphs (2) and (3), the
15 term “State” includes an Indian tribe or tribal orga-
16 nization.

17 (2) GEOGRAPHIC REFERENCES.—The term
18 “State” includes an Indian community in sub-
19 sections (c) (the second and third place the term ap-
20 pears), (d)(1) (the second place the term appears),
21 (d)(3)(A) (the second place the term appears), and
22 (i)(1)(A)(i).

23 (3) STATE-LEVEL ACTIVITIES.—The term
24 “State-level activities” includes activities at the trib-
25 al level.

1 (l) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There is authorized to be
3 appropriated to carry out this section, \$50,000,000
4 for the period of fiscal years 2008 through 2012.

5 (2) STUDIES AND ADMINISTRATION.—With re-
6 spect to the total amount appropriated for such pe-
7 riod in accordance with this subsection, not more
8 than \$2,500,000 of that amount may be used for ex-
9 penditures related to conducting studies required
10 under, and the administration of, this section.

11 (m) TERMINATION OF PROGRAM.—The program es-
12 tablished under subsection (a) shall terminate on Sep-
13 tember 30, 2012.

14 **SEC. 563. STUDY OF UNIVERSAL USE OF ADVANCE PAY-**
15 **MENT OF EARNED INCOME CREDIT.**

16 Not later than 180 days after the date of the enact-
17 ment of this Act, the Secretary of the Treasury shall re-
18 port to Congress on a study of the benefits, costs, risks,
19 and barriers to workers and to businesses (with a special
20 emphasis on small businesses) if the advance earned in-
21 come tax credit program (under section 3507 of the Inter-
22 nal Revenue Code of 1986) included all recipients of the
23 earned income tax credit (under section 32 of such Code)
24 and what steps would be necessary to implement such in-
25 clusion.

1 **SEC. 564. SENSE OF THE SENATE CONCERNING PERSONAL**
2 **SAVINGS.**

3 (a) FINDINGS.—The Senate finds that—

4 (1) the personal saving rate in the United
5 States is at its lowest point since the Great Depres-
6 sion, with the rate having fallen into negative terri-
7 tory;

8 (2) the United States ranks at the bottom of
9 the Group of Twenty (G-20) nations in terms of net
10 national saving rate;

11 (3) approximately half of all the working people
12 of the United States work for an employer that does
13 not offer any kind of retirement plan;

14 (4) existing savings policies enacted by Con-
15 gress provide limited incentives to save for low- and
16 moderate-income families; and

17 (5) the Social Security program was enacted to
18 serve as the safest component of a retirement system
19 that also includes employer-sponsored retirement
20 plans and personal savings.

21 (b) SENSE OF THE SENATE.—It is the sense of the
22 Senate that—

23 (1) Congress should enact policies that promote
24 savings vehicles for retirement that are simple, easily
25 accessible and provide adequate financial security for
26 all the people of the United States;

1 (2) it is important to begin retirement saving as
2 early as possible to take full advantage of the power
3 of compound interest; and

4 (3) regularly contributing money to a finan-
5 cially-sound investment account is one important
6 method for helping to achieve one’s retirement goals.

7 **SEC. 565. RENEWAL GRANTS FOR WOMEN’S BUSINESS CEN-**
8 **TERS.**

9 (a) IN GENERAL.—Section 29 of the Small Business
10 Act (15 U.S.C. 656) is amended by adding at the end the
11 following:

12 “(m) CONTINUED FUNDING FOR CENTERS.—

13 “(1) IN GENERAL.—A nonprofit organization
14 described in paragraph (2) shall be eligible to re-
15 ceive, subject to paragraph (3), a 3-year grant under
16 this subsection.

17 “(2) APPLICABILITY.—A nonprofit organization
18 described in this paragraph is a nonprofit organiza-
19 tion that has received funding under subsection (b)
20 or (l).

21 “(3) APPLICATION AND APPROVAL CRITERIA.—

22 “(A) CRITERIA.—Subject to subparagraph
23 (B), the Administrator shall develop and pub-
24 lish criteria for the consideration and approval

1 of applications by nonprofit organizations under
2 this subsection.

3 “(B) CONTENTS.—Except as otherwise
4 provided in this subsection, the conditions for
5 participation in the grant program under this
6 subsection shall be the same as the conditions
7 for participation in the program under sub-
8 section (l), as in effect on the date of enactment
9 of this Act.

10 “(C) NOTIFICATION.—Not later than 60
11 days after the date of the deadline to submit
12 applications for each fiscal year, the Adminis-
13 trator shall approve or deny any application
14 under this subsection and notify the applicant
15 for each such application.

16 “(4) AWARD OF GRANTS.—

17 “(A) IN GENERAL.—Subject to the avail-
18 ability of appropriations, the Administrator
19 shall make a grant for the Federal share of the
20 cost of activities described in the application to
21 each applicant approved under this subsection.

22 “(B) AMOUNT.—A grant under this sub-
23 section shall be for not more than \$150,000, for
24 each year of that grant.

1 “(C) FEDERAL SHARE.—The Federal
2 share under this subsection shall be not more
3 than 50 percent.

4 “(D) PRIORITY.—In allocating funds made
5 available for grants under this section, the Ad-
6 ministrator shall give applications under this
7 subsection or subsection (l) priority over first-
8 time applications under subsection (b).

9 “(5) RENEWAL.—

10 “(A) IN GENERAL.—The Administrator
11 may renew a grant under this subsection for
12 additional 3-year periods, if the nonprofit orga-
13 nization submits an application for such re-
14 newal at such time, in such manner, and ac-
15 companied by such information as the Adminis-
16 trator may establish.

17 “(B) UNLIMITED RENEWALS.—There shall
18 be no limitation on the number of times a grant
19 may be renewed under subparagraph (A).

20 “(n) PRIVACY REQUIREMENTS.—

21 “(1) IN GENERAL.—A women’s business center
22 may not disclose the name, address, or telephone
23 number of any individual or small business concern
24 receiving assistance under this section without the

1 consent of such individual or small business concern,
2 unless—

3 “(A) the Administrator is ordered to make
4 such a disclosure by a court in any civil or
5 criminal enforcement action initiated by a Fed-
6 eral or State agency; or

7 “(B) the Administrator considers such a
8 disclosure to be necessary for the purpose of
9 conducting a financial audit of a women’s busi-
10 ness center, but a disclosure under this sub-
11 paragraph shall be limited to the information
12 necessary for such audit.

13 “(2) ADMINISTRATION USE OF INFORMATION.—
14 This subsection shall not—

15 “(A) restrict Administration access to pro-
16 gram activity data; or

17 “(B) prevent the Administration from
18 using client information (other than the infor-
19 mation described in subparagraph (A)) to con-
20 duct client surveys.

21 “(3) REGULATIONS.—The Administrator shall
22 issue regulations to establish standards for requiring
23 disclosures during a financial audit under paragraph
24 (1)(B).”.

1 (b) REPEAL.—Section 29(l) of the Small Business
2 Act (15 U.S.C. 656(l)) is repealed effective October 1 of
3 the first full fiscal year after the date of enactment of this
4 Act.

5 (c) TRANSITIONAL RULE.—Notwithstanding any
6 other provision of law, a grant or cooperative agreement
7 that was awarded under subsection (l) of section 29 of
8 the Small Business Act (15 U.S.C. 656), on or before the
9 day before the date described in subsection (b) of this sec-
10 tion, shall remain in full force and effect under the terms,
11 and for the duration, of such grant or agreement.

12 **SEC. 566. REPORTS ON ACQUISITIONS OF ARTICLES, MATE-**
13 **RIALS, AND SUPPLIES MANUFACTURED OUT-**
14 **SIDE THE UNITED STATES.**

15 Section 2 of the Buy American Act (41 U.S.C. 10a)
16 is amended—

17 (1) by striking “Notwithstanding” and insert-
18 ing the following:

19 “(a) IN GENERAL.—Notwithstanding”; and

20 (2) by adding at the end the following:

21 “(b) REPORTS.—

22 “(1) IN GENERAL.—Not later than 180 days
23 after the end of each of fiscal years 2007 through
24 2011, the head of each Federal agency shall submit
25 to the Committee on Homeland Security and Gov-

1 ernmental Affairs of the Senate and the Committee
2 on Oversight and Government Reform of the House
3 of Representatives a report on the amount of the ac-
4 quisitions made by the agency in that fiscal year of
5 articles, materials, or supplies purchased from enti-
6 ties that manufacture the articles, materials, or sup-
7 plies outside of the United States.

8 “(2) CONTENTS OF REPORT.—The report re-
9 quired by paragraph (1) shall separately include, for
10 the fiscal year covered by such report—

11 “(A) the dollar value of any articles, mate-
12 rials, or supplies that were manufactured out-
13 side the United States;

14 “(B) an itemized list of all waivers granted
15 with respect to such articles, materials, or sup-
16 plies under this Act, and a citation to the trea-
17 ty, international agreement, or other law under
18 which each waiver was granted;

19 “(C) if any articles, materials, or supplies
20 were acquired from entities that manufacture
21 articles, materials, or supplies outside the
22 United States, the specific exception under this
23 section that was used to purchase such articles,
24 materials, or supplies; and

25 “(D) a summary of—

1 “(i) the total procurement funds ex-
2 pended on articles, materials, and supplies
3 manufactured inside the United States;
4 and

5 “(ii) the total procurement funds ex-
6 pended on articles, materials, and supplies
7 manufactured outside the United States.

8 “(3) PUBLIC AVAILABILITY.—The head of each
9 Federal agency submitting a report under paragraph
10 (1) shall make the report publicly available to the
11 maximum extent practicable.

12 “(4) EXCEPTION FOR INTELLIGENCE COMMU-
13 NITY.—This subsection shall not apply to acquisi-
14 tions made by an agency, or component thereof, that
15 is an element of the intelligence community as speci-
16 fied in, or designated under, section 3(4) of the Na-
17 tional Security Act of 1947 (50 U.S.C. 401a(4)).”.

18 **SEC. 567. SENSE OF THE SENATE REGARDING REPEAL OF**
19 **1993 INCOME TAX INCREASE ON SOCIAL SE-**
20 **CURITY BENEFITS.**

21 It is the sense of the Senate that Congress should
22 repeal the 1993 tax increase on Social Security benefits
23 and eliminate wasteful spending, such as spending on un-
24 necessary tax loopholes, in order to fully offset the cost

1 of such repeal and avoid forcing taxpayers to pay substan-
2 tially more interest to foreign creditors.

3 **SEC. 568. SENSE OF THE SENATE REGARDING PERMANENT**
4 **TAX INCENTIVES TO MAKE EDUCATION MORE**
5 **AFFORDABLE AND MORE ACCESSIBLE FOR**
6 **AMERICAN FAMILIES.**

7 It is the sense of the Senate that Congress should
8 make permanent the tax incentives to make education
9 more affordable and more accessible for American families
10 and eliminate wasteful spending, such as spending on un-
11 necessary tax loopholes, in order to fully offset the cost
12 of such incentives and avoid forcing taxpayers to pay sub-
13 stantially more interest to foreign creditors.

14 **SEC. 569. RESPONSIBLE GOVERNMENT CONTRACTOR RE-**
15 **QUIREMENTS.**

16 Section 274A(e) of the Immigration and Nationality
17 Act (8 U.S.C. 1324a(e)) is amended by adding at the end
18 the following new paragraph:

19 “(10) PROHIBITION ON AWARD OF GOVERN-
20 MENT CONTRACTS, GRANTS, AND AGREEMENTS.—

21 “(A) EMPLOYERS WITH NO CONTRACTS,
22 GRANTS, OR AGREEMENTS.—

23 “(i) IN GENERAL.—Subject to clause
24 (iii) and subparagraph (C), if an employer
25 who does not hold a Federal contract,

1 grant, or cooperative agreement is deter-
2 mined to have violated this section, the em-
3 ployer shall be debarred from the receipt of
4 a Federal contract, grant, or cooperative
5 agreement for a period of 7 years.

6 “(ii) PLACEMENT ON EXCLUDED
7 LIST.—The Secretary of Homeland Secu-
8 rity or the Attorney General shall advise
9 the Administrator of General Services of
10 the debarment of an employer under clause
11 (i) and the Administrator of General Serv-
12 ices shall list the employer on the List of
13 Parties Excluded from Federal Procure-
14 ment and Nonprocurement Programs for a
15 period of 7 years.

16 “(iii) WAIVER.—

17 “(I) AUTHORITY.—The Adminis-
18 trator of General Services, in con-
19 sultation with the Secretary of Home-
20 land Security and the Attorney Gen-
21 eral, may waive operation of clause (i)
22 or may limit the duration or scope of
23 a debarment under clause (i) if such
24 waiver or limitation is necessary to

1 national defense or in the interest of
2 national security.

3 “(II) NOTIFICATION TO CON-
4 GRESS.—If the Administrator grants
5 a waiver or limitation described in
6 subclause (I), the Administrator shall
7 submit to each member of the Com-
8 mittee on the Judiciary of the Senate
9 and of the Committee on the Judici-
10 ary of the House of Representatives
11 immediate notice of such waiver or
12 limitation.

13 “(III) PROHIBITION ON JUDICIAL
14 REVIEW.—The decision of whether to
15 debar or take alternative action under
16 this clause shall not be judicially re-
17 viewed.

18 “(B) EMPLOYERS WITH CONTRACTS,
19 GRANTS, OR AGREEMENTS.—

20 “(i) IN GENERAL.—Subject to clause
21 (iii) and subclause (C), an employer who
22 holds a Federal contract, grant, or cooper-
23 ative agreement and is determined to have
24 violated this section shall be debarred from
25 the receipt of new Federal contracts,

1 grants, or cooperative agreements for a pe-
2 riod of 10 years.

3 “(ii) NOTICE TO AGENCIES.—Prior to
4 debarring the employer under clause (i),
5 the Secretary of Homeland Security, in co-
6 operation with the Administrator of Gen-
7 eral Services, shall advise any agency or
8 department holding a contract, grant, or
9 cooperative agreement with the employer of
10 the Government’s intention to debar the
11 employer from the receipt of new Federal
12 contracts, grants, or cooperative agree-
13 ments for a period of 10 years.

14 “(iii) WAIVER.—

15 “(I) AUTHORITY.—After consid-
16 eration of the views of any agency or
17 department that holds a contract,
18 grant, or cooperative agreement with
19 the employer, the Administrator of
20 General Services, in consultation with
21 the Secretary of Homeland Security
22 and the Attorney General, may waive
23 operation of clause (i) or may limit
24 the duration or scope of the debar-
25 ment under clause (i) if such waiver

1 or limitation is necessary to the na-
2 tional defense or in the interest of na-
3 tional security.

4 “(II) NOTIFICATION TO CON-
5 GRESS.—If the Administrator grants
6 a waiver or limitation described in
7 subclause (I), the Administrator shall
8 submit to each member of the Com-
9 mittee on the Judiciary of the Senate
10 and of the Committee on the Judici-
11 ary of the House of Representatives
12 immediate notice of such waiver or
13 limitation.

14 “(III) PROHIBITION ON JUDICIAL
15 REVIEW.—The decision of whether to
16 debar or take alternate action under
17 this clause shall not be judicially re-
18 viewed.

19 “(C) EXEMPTION FROM PENALTY FOR EM-
20 PLOYERS PARTICIPATING IN THE BASIC PILOT
21 PROGRAM.—In the case of imposition on an em-
22 ployer of a debarment from the receipt of a
23 Federal contract, grant, or cooperative agree-
24 ment under subparagraph (A) or (B), that pen-
25 alty shall be waived if the employer establishes

1 that the employer was voluntarily participating
2 in the basic pilot program under section 403(a)
3 of the Illegal Immigration Reform and Immigrant
4 Responsibility Act of 1996 (8 U.S.C.
5 1324a note) at the time of the violations of this
6 section that resulted in the debarment.”.

7 **SEC. 570. DISABILITY PREFERENCE PROGRAM FOR TAX**
8 **COLLECTION CONTRACTS.**

9 (a) IN GENERAL.—Section 6306 (relating to quali-
10 fied tax collection contracts) is amended—

11 (1) by striking “Nothing” in subsection (a) and
12 inserting “Except as provided in subsection (e),
13 nothing”,

14 (2) by redesignating subsections (c), (d), (e),
15 and (f) as subsections (d), (e), (f), and (g), respec-
16 tively, and

17 (3) by inserting after subsection (b) the fol-
18 lowing new subsection:

19 “(c) DISABILITY PREFERENCE PROGRAM FOR TAX
20 COLLECTION CONTRACTS.—

21 “(1) IN GENERAL.—The Secretary shall provide
22 a qualifying disability preference to any program
23 under which any qualified tax collection contract is
24 awarded on or after the effective date of this sub-

1 section and shall ensure compliance with the require-
2 ments of paragraph (3).

3 “(2) QUALIFYING DISABILITY PREFERENCE.—

4 “(A) IN GENERAL.—For purposes of this
5 subsection, the term ‘qualifying disability pref-
6 erence’ means a preference pursuant to which
7 at least 10 percent (in both number and aggre-
8 gate dollar amount) of the accounts covered by
9 qualified tax collection contracts are awarded to
10 persons satisfying the following criteria:

11 “(i) Such person employs within the
12 United States at least 50 severely disabled
13 individuals.

14 “(ii) Such person shall agree as an
15 enforceable condition of its bid for a quali-
16 fied tax collection contract that within 90
17 days after the date such contract is award-
18 ed, not less than 35 percent of the employ-
19 ees of such person employed in connection
20 with providing services under such contract
21 shall—

22 “(I) be hired after the date such
23 contract is awarded, and

24 “(II) be severely disabled individ-
25 uals.

1 “(B) DETERMINATION OF SATISFACTION
2 OF CRITERIA.—Within 60 days after the end of
3 the period specified in subparagraph (A)(ii), the
4 Secretary shall determine whether such person
5 has met the 35 percent requirement specified in
6 such subparagraph, and if such requirement
7 has not been met, shall terminate the contract
8 for nonperformance. For purposes of deter-
9 mining whether such 35 percent requirement
10 has been satisfied, severely disabled individuals
11 providing services under such contract shall not
12 include any severely disabled individuals who
13 were counted toward satisfaction of the 50-em-
14 ployee requirement specified in subparagraph
15 (A)(i), unless such person replaced such individ-
16 uals by hiring additional severely disabled indi-
17 viduals who do not perform services under such
18 contract.

19 “(3) PROGRAM-WIDE EMPLOYMENT OF SE-
20 VERELY DISABLED INDIVIDUALS.—Not less than 15
21 percent of all individuals hired by all persons to
22 whom tax collection contracts are issued by the Sec-
23 retary under this section, to perform work under
24 such tax collection contracts, shall qualify as se-
25 verely disabled individuals.

1 “(4) SEVERELY DISABLED INDIVIDUAL.—For
2 purposes of this subsection, the term ‘severely dis-
3 abled individual’ means any one of the following:

4 “(A) Any veteran of the United States
5 Armed Forces with—

6 “(i) a disability determined by the
7 Secretary of Veterans Affairs to be service-
8 connected, or

9 “(ii) a disability deemed by statute to
10 be service-connected.

11 “(B) Any individual who is a disabled ben-
12 eficiary (as defined in section 1148(k)(2) of the
13 Social Security Act (42 U.S.C. 1320b–19(k)(2))
14 or who would be considered to be such a dis-
15 abled beneficiary but for having income or as-
16 sets in excess of the income or asset eligibility
17 limits established under title II or XVI of the
18 Social Security Act, respectively.”.

19 (b) REPORT BY GOVERNMENT ACCOUNTABILITY OF-
20 FICE.—

21 (1) IN GENERAL.—The Comptroller General of
22 the United States shall conduct a study of the effec-
23 tiveness and efficiency of the use of private contrac-
24 tors for Internal Revenue Service debt collection.
25 The study required by this paragraph shall be com-

1 pleted in time to be taken into account by Congress
2 before any new contracting is carried out under sec-
3 tion 6306 of the Internal Revenue Code of 1986 in
4 years following 2008.

5 (2) STUDY OF COMPARABLE EFFORTS.—As
6 part of the study required under paragraph (1), the
7 Comptroller General shall—

8 (A) make every effort to determine the rel-
9 ative effectiveness and efficiency of debt collec-
10 tion contracting by Federal staff compared to
11 private contractors, using a cost calculation for
12 both Federal staff and private contractors
13 which includes all benefits and overhead costs,

14 (B) compare the cost effectiveness of the
15 contracting approach of the Department of the
16 Treasury to that of the Department of Edu-
17 cation's Office of Student Financial Assistance,
18 and

19 (C) survey State tax debt collection experi-
20 ences for lessons that may be applicable to the
21 Internal Revenue Service collection efforts.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to any tax collection contract
24 awarded on or after the date of the enactment of this Act.